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AUTHOR	Caldwell, Russell B.; Arrington, Barry
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ABSTRACT

This report discusses strategies that will help charter schools finance their facilities needs. It outlines the history of the Colorado Charter Schools Act, focusing on the contracting process, on dispute resolution and appeals, on renewal, on employee options, and on revenue allocation. The document also examines issues surrounding school operations under the Charter Schools Act. It looks at financing guidelines, types of facilities in use by Colorado charter schools, the quality of charter-school facilities, how schools acquired their facilities, and tax-exempt bond financing. Some of the roadblocks to successful charter-school capital finance involve revenue streams, limited access to tax-exempt financing, uncertainty regarding public school status, perceptions of risk, and a scarcity of resources. The document provides a general overview of the finance mechanisms used by public schools to obtain capital for their facilities needs, as well as the potential availability of these mechanisms for charter school use, such as conduit financing, loan pools, and credit enhancement. The report closes by making 15 policy recommendations that policymakers should consider as they deal with charter schools' facilities concerns. Three appendices reproduce the Colorado Charter Schools Act and the names and addresses of the 64 charter schools operating in the 1999-2000 school year. (RJM)

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COLORADO CHARTER SCHOOLS CAPITAL FINANCE STUDY:

CHALLENGES AND OPPORTUNITIES FOR THE FUTURE

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Prepared By: Russell B. Caldwell
Bigelow and Company
and
Barry Arrington
Arrington & Rouse, P.C.

For: Colorado Department of Education
201 East Colfax Avenue
Denver CO 80203
http://www.cde.state.co.us

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COLORADO CHARTER SCHOOL CAPITAL FINANCE
CHALLENGES AND OPPORTUNITIES FOR THE FUTURE

Executive Summary

The Colorado Charter Schools Act was enacted in 1993 to provide greater educational choice and diversity in the Colorado public school system. As of the beginning of the 1999-2000 school year 69 charters had been approved, and 64 charter schools were actually in operation with a combined enrollment of 17,472 students.

The statute provides for detailed application, contracting and appeals procedures. However, it is mostly silent on the issue of charter schools facilities. In the past many charter schools were paying for their facilities out of operational revenues that amounted to little more than the original statutory minimum of 80% of per pupil operating revenues ("PPOR"). In 1999 the legislature passed H.B. 99-1113 which provided for a new minimum revenue standard of 95% of per pupil revenues ("PPR") and required charter schools to make a mandatory transfer to their capital reserve and risk management funds. The new minimum funding allocation will result in increased funding for many charter schools.

The organizers of Colorado's charter schools have shown a high degree of determination and entrepreneurial spirit in achieving solutions to often vexing facilities problems for their schools. The solutions they have achieved are as diverse as the schools themselves, with the schools' occupying every imaginable type of space from refurbished industrial buildings, to strip mall space, to abandoned courthouses, to college campuses and numerous other places. Charter school administrators have been able to make these facilities work for their purposes, even though the space is usually nowhere near the quality of conventional public school space. Most charter schools either rent their facilities through a standard commercial lease or occupy surplus district facilities. However, a growing number of schools are using creative means to acquire suitable space, including donations from colleges and cities and constructing facilities through tax-exempt financing.

There are a number of roadblocks, however, to successful charter school capital finance. These include lack of a separate "capital funding" revenue stream like that enjoyed by school districts; TABOR Amendment restrictions on charter school capital

finance; obstacles to obtaining tax-exempt financing, which are especially severe with respect to so-called "direct issue" obligations; uncertainty among local officials regarding charter schools' status as public schools; the perception among many participants in the capital markets that charter schools are risky investments; and the scarcity of appropriate and affordable space in some real estate markets.

Historically, public schools have used one of three types of financing mechanisms to fund their capital construction requirements: (1) general obligation bonds; (2) revenue bonds; and (3) lease-purchase financing. Because of the limitations imposed by the Colorado Constitution, the third option is the only option available to Colorado charter schools. In a lease-purchase financing the underlying lease must be clearly subject to year-to-year cancellation by the charter school. In this sense the financing is functionally a "non-recourse" financing, which entails greater risk and is therefore more costly than the "full faith and credit" financing available to school districts. There are a number of mechanisms for providing access to the tax-exempt bond market and also lowering the cost of such financing, including issuing financial obligations through so-called "conduit" issuers, establishing direct loan pools, and providing for credit enhancement.

Colorado leads the nation in providing charter schools with access to conduit financing through a statewide bonding authority. Other states, however, have provided their charter schools with greater access to capital funding. Indeed, four states and the District of Columbia provide a distinct separate revenue source with which charter schools are able to fund their capital needs. A few states have also established low-interest direct-loan pools for charter schools and at least one jurisdiction requires public agencies to give charter schools preferential treatment in the sale or rental of their surplus property.

Charter school capital finance decisions should be made in the context of agreed upon policy goals, including the goals of a level playing field among all public schools, equal access to innovative opportunities to all students (including those of low or moderate means), and flexibility in funding decisions. With these goals in mind, consideration of the following policy options is recommended to Colorado policymakers:

1. Establish a separate source of facilities revenue for Colorado charter schools.

2. Clarify that as Colorado public schools charter schools have the same flexibility regarding exemption from local zoning and building codes as conventional public schools.

3. Establish a direct loan pool or credit enhancement pool to lower the cost of capital for charter schools.

4. Open the mandatory transfer funds required by H.B. 99-1113 to fund standard commercial leases, because nearly half of charter schools are leasing their facilities in this way.

5. Reduce the risk many investors perceive to be associated with charter schools by making it clear in statute that a school board may not act arbitrarily or capriciously in revoking or non-renewing a charter.

6. Provide incentives for local governments to act as conduits for charter school tax-exempt financing.

7. Seek clarification from the IRS concerning whether charter schools may issue tax-exempt obligations directly.

8. Give colleges and universities specific authority to use their capital resources to build associated charter schools.

9. Establish tax credits for charter school loans.

10. Give charter schools preference in occupying surplus public agency space.

11. Clarify that property occupied by charter schools is exempt from local property taxation the same as any other public school space.

12. Establish tax credits for donations to private direct loan pools or credit enhancement pools.

13. Give local school districts incentives to include charter schools in their bond elections.

14. Work with the congressional delegation to establish a lease-purchase program that is exempt from the arbitrage rebate provisions of the federal tax code.

15. Provide a procedure for establishing special "charter school capital improvements zones" within existing school districts.

History of the Colorado Charter Schools Act

In the 1991 legislative session then Senator Bill Owens introduced the first charter school bill in the Colorado General Assembly[1]. Senator Owens' bill failed, and he introduced a similar bill in the 1992 session. That bill also failed. However, in 1993 Senator Owens introduced yet another charter school bill, SB 93-183, and with help from his House Sponsor, Representative Peggy Reeves, and David S. D'Evelyn, whom Owens recently called the intellectual father of the Colorado charter school movement,[2] Owens was able to pass the Colorado Charter Schools Act, which became effective on June 3, 1993.

Within weeks of the effective date of the Act charter school organizers in Douglas County submitted a charter application to the Douglas County School Board. Their application was approved, and Colorado's first operational charter school, Academy Charter School in Castle Rock, opened in the fall of 1993.[3] Since that time 69 charters have been approved in Colorado,[4] and 17,472 Colorado public school children (over two percent of the total public school population) are now being educated in charter schools.[5]

This innovative educational option has vastly increased the number of public school choices available for parents, students and teachers. Moreover, many school districts have come to view charter schools and, in a broader sense, all schools of choice, as key tools in implementing Colorado's standards based education initiative.[6] These school districts recognize that as academic standards have become more rigorous and the expectation that more students must meet those standards has increased, time, resources, and instructional strategies must be used more flexibly to enable more children to meet the higher standards, and that charter schools can be an important and cost effective means of achieving these goals.[7]

In the nearly six years since the Colorado Charter Schools Act was passed no charter school has had its charter revoked or non-renewed by a local school board, and to date only two charter schools (Denver Public Schools' Clayton Charter School and Summit County's Alpine Charter School) have ceased operations due to a lack of enrollment. The State Board of Education has reversed the decision of local school boards to not grant a charter 14 times.[8]

Since 1993 the Charter Schools Act has been the subject of a substantial amount of litigation in both the state and federal courts. The result of this litigation has been that the Act has survived two constitutional challenges and a number of its provisions and their legal importance have been clarified by the courts.

The Act survived its first constitutional challenge early on when the United States District Court held in the 1994 case of Villanueva v. Carere[9] that the Act does not violate the United States Constitution, because Colorado has a legitimate governmental interest in encouraging innovation in education. Recently, the Colorado Supreme Court upheld key provisions of the Act against a challenge brought under the Colorado Constitution in the case of Board of Education of School District No. 1 v. Booth.[10] In the Booth case the Supreme Court upheld a vital provision of the Act allowing charter applicants to appeal local school boards' charter decisions to the State Board of Education against a challenge that the appeal procedure violated the local control of education provisions of the Colorado Constitution.

In addition to these constitutional cases, the courts have decided two other cases or great importance to Colorado charter schools. The first case, King v. United States,[11] involved the application of the Colorado Governmental Immunity Act to charter schools. The United States District Court held that a charter school, as an agency, instrumentality and political subdivision of its chartering district, is a public entity entitled to the protections of the Governmental Immunity Act. In the second case Academy of Charter Schools v. Adams County School District No. 12.[12] the Colorado Court of Appeals held that a Colorado Charter School does not have the right to sue its chartering district when the district breaches the charter school contract.

Summary of the Colorado Charter Schools Act

Purpose of Act

The Colorado Charter Schools Act declares that its purpose is to (a) improve pupil learning by creating schools with high, rigorous standards for pupil performance; (b) increase learning opportunities for all students, especially those with low levels of academic achievement; (c) encourage diverse approaches to education; (d) allow the development of innovative forms of measuring student performance; (e) create new professional opportunities for teachers; (f) provide parents and pupils with increased educational choice; and (g) encourage parental involvement in public schools.[13]

General Provisions

Under the Charter Schools Act a Colorado charter school is a public, nonsectarian, non-religious, non-home-based school which operates within a school district. A charter school is a public school within the school district that grants its charter and is accountable to the district's board of education and is subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special educational services. Enrollment must be open to any child who resides within the school district, except a charter school is not required to alter the structure or arrangement of its facility except as required by state or federal law. Private schools and home-based schools may not be converted into charter schools, and a majority of the charter school's students must live in the chartering district or contiguous districts.[14]

A charter school is administered and governed by a governing body in a manner agreed by the charter school applicant and the local board of education. A charter school may, but is not required to, organize as a nonprofit corporation under the Colorado Nonprofit Corporation Act, which does not effect its status as a public school for any purpose under Colorado law. A charter school may not charge tuition for K-12 programs and services, but can charge for before- and after-school services or pre-kindergarten classes.[15]

Pursuant to its contract with the chartering district, a charter school may operate free from specified school district policies and state regulations. A local board of education may waive the application of its regulations without seeking approval of the

State Board of Education, and the State Board of Education may waive state statutory requirements and rules promulgated by the state board. A charter school is authorized to offer any educational program that may be offered by a school district unless expressly prohibited by its charter or state law. A charter school is responsible for its own operations including, but not limited to, preparation of a budget, contracting for services and personnel matters.[16]

A charter school, at its discretion, may contract with the school district for the direct purchase of district services in addition to those included in central administrative overhead costs, including but not limited to, food services, custodial services, maintenance, curriculum, media services, and libraries. The amount to be paid by a charter school in purchasing any district service is determined by dividing the cost of providing the service for the entire school district, as specified in the school district's budget, by the number of students enrolled in the school district and multiplying that amount by the number of students enrolled in the charter school.[17]

Charter School Contracting Process

Under the Charter Schools Act an approved charter application serves as the basis for a contract between the charter school and the local board of education. The contract between the charter school and the district reflects all agreements regarding the waiver of school district policies and requests for waivers from State Board of Education regulations and state statutes.[18]

An application for a charter must include information concerning the mission of the school; its goals and objectives and pupil performance standards; evidence of support; a description of the school's proposed educational program and plan for evaluating pupil performance; a proposed budget; a description of the school's governance structure; plans for employee relations; an agreement regarding liability and insurance coverage; a transportation plan, if any; and a proposed dispute resolution process.[19]

Charter school applications must be filed with the local board of education by October 1 to be eligible for consideration for the following school year. Applications are reviewed by the local district's accountability committee prior to consideration by the board of education. The local board is required to hold community meetings on the proposed charter, after which the board must rule on the application within 75 days of

receipt. The contract between the charter school and the school district must be finalized within 90 days of the time the board of education approves an application. However, the charter applicant and the local board may mutually agree to waive these deadlines. If the local board denies the application or imposes unacceptable conditions on the application, the applicant may appeal to the State Board of Education.[20]

Dispute Resolution and Appeals

The Charter Schools Act requires each charter and its District to agree on a third-party dispute resolution process to resolve disputes that may arise concerning the implementation of the charter contract. If there is no provision in the contract, the Department of Education provides dispute resolution services. If either party refuses to participate in this process, the other party may appeal to the State Board of Education.[21]

Under the Charter Schools Act's appeal procedures, a charter applicant who wishes to appeal a local board of education's decision must file a notice of appeal with the State Board of Education within 30 days of the decision. Within 60 days of receipt of the notice of appeal, the state board is required to hold a public hearing to review the decision of the local board and make its findings. If the state board finds the local board's decision was contrary to the best interests of the pupils, school district or community, it must remand the decision to the local board with written instructions to reconsider. The instructions to reconsider include specific recommendations concerning the matters requiring reconsideration. The local board must reconsider its decision within 30 days of the remand and make a final decision. If the local board's decision is still adverse to the charter or charter applicant a second notice of appeal may be filed within 30 days of the final decision. Within 30 days of its receipt of the second notice of appeal the state board is required to hold a second hearing and determine whether the local board's decision was contrary to the best interests of the pupils, school district or community. If such a finding is made the state board must remand the local board's final decision with instructions to approve the charter application. The state board's decision is final and not subject to appeal.[22]

Charter Renewal

With certain exceptions, a new charter may be approved for a period of at least three years but not more than five years and may be renewed for periods not exceeding

five years. No later than December 1 of the year prior to the academic year in which a charter is scheduled to expire, the charter school must submit a renewal application to the local board. The local board of education is required to rule on the renewal application no later than the following February 1 or a mutually agreed upon date.[23]

A renewal application must contain a progress report on the charter school and a financial statement that discloses the costs of operating the charter school. A charter may be revoked or not renewed by the local board of education if: (a) the charter school committed a material violation of the conditions, standards or procedures in the charter application; (b) failed to make reasonable progress toward achieving the content or pupil performance standards set forth in its application; (c) failed to meet generally accepted standards of fiscal management; or (d) violated any provision of law from which the charter school was not specifically exempted. In addition, a charter may be not renewed upon a finding that it is not in the best interest of the pupils residing in the district to continue operation of the school. Any decision not to renew a charter may be appealed as set forth above.[24]

Employee Options

A teacher employed by a district who becomes employed by a charter school shall be considered on a one-year leave of absence. The teacher and the district may agree to renew the leave for two additional one-year periods. At the end of this period, the district shall determine the relationship between it and the teacher and provide notice to the teacher. The local board of education shall also establish policies or negotiate an agreement regarding the status of school district employees employed by charter schools who seek to return to employment with the district. Employees of charter schools shall be members of the Colorado Public Employee Retirement Association, which means, among other things, that their wages are not subject to withholding for social security purposes.[25]

Allocation of Categorical Revenues

For the 2000-2001 budget year and budget years thereafter, each school district must provide federally required educational services to students enrolled in charter schools on the same basis as such services are provided to students enrolled in other public schools of the school district. Each charter school shall pay an amount equal to

the per pupil cost incurred by the school district in providing federally required educational services, multiplied by the number of students enrolled in the charter school. At either party's request, however, the charter school and the school district may negotiate and include in the charter contract alternate arrangements for the provision of and payment for federally required educational services, in which case the proportionate share of state and federal resources generated by students receiving such federally required educational services or staff serving them shall be directed by the school district to the charter school enrolling such students. In addition, the proportionate share of state and federal resources generated by students with disabilities or staff serving them must be directed to charter schools enrolling such students by their school districts or administrative units. The proportionate share of moneys generated under other federal or state categorical aid programs must also be directed to charter schools serving students eligible for such aid as required by the federal Charter School Expansion Act of 1998.

Financing Facilities and Operations Under the Charter Schools Act

Since this study is specifically intended to address facilities issues implicated by Colorado charter schools, and facilities issues necessarily implicate finance issues, special emphasis will be placed on the way in which the Colorado Charter Schools Act deals with these two interrelated issues.

Charter School Facilities Provisions

The Act has very little to say about facilities issues generally and nothing at all to say about how charter schools should finance their facilities. With only a couple of narrow exceptions, facilities issues are generally left to negotiations between the charter school and its chartering district and the ingenuity of charter school organizers.

The Act speaks directly to facilities issues in only four places, Colo.Rev.Stat. § 22-30.5-104(3), 104(4.5), 104(7)(b) and 104(7)(c). Subsection 104(3) deals with access by students with disabilities and provides that enrollment in a charter school must be open to any child who resides within the school district, except that

> no charter school shall be required to make alterations in the structure of the facility used by the charter school or to make alterations to the arrangement or function of rooms within the facility, except as may be required by state or federal law.

Subsection 104(4.5) was added to the Act in 1999 by S.B. 99-52, which the General Assembly passed for the specific purpose of clarifying that Colorado charter schools may issue financial obligations that are exempt from state and federal income tax. The provision states:

> (4.5)(a) In order to clarify the status of charter schools for purposes of tax-exempt financing, a charter school, as a public school, is a governmental entity. Direct leases and financial obligations of a charter school shall not constitute debt or financial obligations of the school district unless the school district specifically assumes such obligations.
>
> (b) Notwithstanding the provisions of section 22-30.5-110(1) to the contrary, a charter school and the local board of education may agree to extend the length of the charter beyond five years for the purpose of enhancing the terms of any lease or financial obligation.

Finally, subsections 104(7)(b) and (c) deal with the charter school's authority to enter into contracts for the use of facilities and a prohibition on districts from charging rent to charter schools occupying district-owned facilities:

> (7)(a) A charter school shall be responsible for its own operation including, but not limited to, preparation of a budget, contracting for services, and personnel matters.
>
> (b) A charter school may negotiate and contract with a school district, the governing body of a state college or university, or any third party for the use of a school building and grounds, the operation and maintenance thereof, and the provision of any service, activity, or undertaking that the charter school is required to perform in order to carry out the educational program described in its charter. Any services for which a charter school contracts with a school district shall be provided by the district at cost. The charter school shall have standing to sue and be sued in its own name for the enforcement of any contract created pursuant to this paragraph (b).
>
> (c) In no event shall a charter school be required to pay rent for space which is deemed available, as negotiated by contract, in school district facilities. All other costs for the operation and maintenance of the facilities used by the charter school shall be subject to negotiation between the charter school and the school district.

Section 112 – The Charter Schools Financing Guidelines

As noted above, no provision of the Charter Schools Act deals specifically with financing facilities acquisition by charter schools. Instead, charter schools must negotiate with their chartering district for sufficient resources to meet their facilities needs, and these negotiations must be conducted pursuant to the guidelines set forth in Section 112 of the Act,[26] which are summarized in this section.

Subsection (1) states that for purposes of the Public School Finance Act of 1994 (the "School Finance Act"),[27] pupils enrolled in a charter school shall be included in the pupil enrollment of the school district that granted its charter. The practical effect of this provision is that charter school students are counted toward the chartering district's overall student count. This is, of course, very important for chartering districts, because it means that the district will receive full funding under the School Finance Act for each charter school student in the district.

Subsection (1) as we have seen provides that chartering districts receive full funding for each charter school student; subsection (2) deals with how districts pass a

portion of these funds to the charter schools. Generally, the Act contemplates a process of negotiations pursuant to which each district contracts for a specific funding amount with each of its charter schools within the broad parameters established by section 112 of the Act.

Historically, under section 112's financing guidelines, a charter school's financing has been based upon the chartering district's "per pupil operating revenues" (usually referred to as "PPOR"), which is in turn based upon the chartering district's "per pupil revenues" (usually referred to as "PPR"). A district's PPR is calculated by dividing the district's total program as calculated under the School Finance Act by the district's total funded pupil count for the year. A district's PPOR is then calculated by subtracting from the PPR the "mandatory transfer" to capital and insurance reserve funds required by Colorado law.

In the original 1993 Act, section 112 provided that the district and the charter school would "begin discussions" on the funding formula in the contract using eighty percent of the district's PPOR. Many charter schools and their districts agreed on greater funding amounts. However, some districts refused to fund charter schools at an amount greater than the statutory minimum set forth in section 112.

In the 1999 session the General Assembly passed and Governor Owens signed H.B. 99-1113, which amended the Charter Schools Act to provide for increases in the minimum funding levels for Colorado charter schools. The Act now provides that for budget year 2000-2001 and budget years thereafter each charter school and the authorizing school district shall negotiate funding under the contract at a minimum of ninety-five percent of the district PPR for each pupil enrolled in the charter school.[28]

The school district may choose to retain up to five percent of the district PPR as payment for the charter school's portion of central administrative overhead costs incurred by the school district. However, in order to prevent districts from using creative accounting methods to circumvent the statute, the Act specifically defines "central administrative overhead costs" by reference to cost items falling within a specific category of the school district chart of accounts specified by rule of the State Board of Education.

As part of the new funding formula provided in H.B. 99-1113, beginning in the 2000-2001 budget year charter schools will be required to transfer a "mandatory transfer" amount to funds created by the charter school for capital reserve or risk management purposes. The amount of this transfer is equal to the "mandatory transfer" amount set forth in Colo.Rev.Stat. § 22-54-105(2)(b) multiplied by the number of students enrolled in the charter school. The monies placed in these funds may be used by the charter school only for capital reserve and risk management purposes.

Thus, H.B. 99-1113 did three things: (1) it changed the minimum funding base for Colorado charter schools from a percentage of a district's PPOR to a percentage of the district's PPR; (2) it increased the minimum funding percentage from eighty percent to ninety-five percent; and (3) it required charter schools to begin making the same "mandatory transfer" to capital and insurance reserve funds as the district as a whole is required to make.

Jefferson County School District R-1's relationship with its ten charter schools provides a typical example of how the formulas described above operate in practice. In the 1998-99 school year pursuant to the School Finance Act Jefferson County School District was allocated PPR of $4,778.66.[29] The "mandatory transfer" for the year was $223.[30] Thus Jefferson County School District's PPOR under the School Finance Act was $4,555.66.

Jefferson County School District also received revenues from other sources, primarily from its bond redemption fund mill levy. Colorado has historically assigned the task of funding capital construction to local districts. Therefore, in addition to the amount it received under the School Finance Act, Jefferson County School District received revenue from bond mill levies in the amount of approximately $717 per student.[31] Adding the district's PPR to the amount received from its bond mill levies, Jefferson County School District received approximately $5,495.66 per pupil in state and local revenues to finance both its educational operations and its capital finance requirements.[32]

Turning to how Jefferson County School District allocated a portion of these funds to its charter schools, the district typically funds its charter schools at the rate of 85% of PPOR. Thus, for the 1998-99 school year most Jefferson County charter schools

received $3,872.31 per student as their share of the district's PPOR of $4,555.66. The district does not allocate any of its bond mill levy to its charter schools.[33] Therefore, the charter schools did not receive any of the $717 per student in bond mill levy revenues. Accordingly, the typical Jefferson County charter school funded both its educational operations and its capital finance requirements with approximately 70.5% of the per pupil revenue the district received for these purposes (i.e., $3,872.31 per student out of $5,495.66 per student).

Other Colorado districts provide their charter schools with greater PPOR revenue than Jefferson County. In addition, at least two districts have allocated a portion of their bond mill levy revenues to their charter schools. Eagle County School District has agreed to use part of the proceeds of a recent bond offering to provide access and utilities to a district-owned site on which Eagle County Charter Academy proposes to build a charter school facility, and Park County School District Re2 used part of the proceeds of a bond offering to assist Lake George and Guffey charter schools with their capital needs.

Under H.B. 99-1113, beginning in the 2000-2001 fiscal year, Jefferson County and other districts funding their charter schools near the statutory minimum will be required to increase the amount by which they fund their charter schools to a minimum of ninety-five percent of its PPR. Obviously, this will mean increased revenues for charter schools in these districts. In other districts, however, the effects of H.B. 99-1113 on charter school finance will be less pronounced. Indeed, a few districts already fund their charter schools at an amount greater than the minimum specified in the new law. For charter schools in these districts, H.B. 99-1113 will have no effect on their finances other than to require the mandatory minimum transfers to the capital reserve and insurance funds.

Current Colorado Charter Facilities

Types of Facilities In Use By Colorado Charter Schools

As noted above, one of the General Assembly's stated goals when it passed the Charter Schools Act was to "encourage diverse approaches to education" and there can be no question that with respect to this goal at least, the Act has been extremely successful. The educational philosophies represented among the organizers of Colorado's 64 operating charter schools are widely divergent, and, not surprisingly, the schools they have created run the full range of the educational spectrum, from highly structured and disciplined "back-to-basics" fundamental schools to learn-at-your-own-pace "open" schools.

In the midst of this diversity, however, there is one character trait – an entrepreneurial spirit – that is perhaps common to every organizer of a charter school. The task of starting and operating a charter school can be extremely daunting, because so many different hurdles must be leaped, from conceiving an educational mission, generating and organizing support for the mission, researching, preparing, submitting and defending a charter application, and then actually bringing the school into operation if a charter is granted. Indeed, the task can be so arduous that only those people who bring the "can do" attitude of an entrepreneur to the task are likely to succeed.

Nowhere is this spirit more necessary than in the task of finding a facility in which to locate a proposed charter school. There is rarely an easy answer when a member of a school board reviewing a charter application asks the inevitable question, "Where are you going to put this school?" This is especially true when the question is followed – as it often is – by a comment to the effect of, "Of course you know we don't have anywhere to put you in our facilities." The incredible array of solutions that have been achieved for this intractable problem by the organizers of Colorado's charter schools is a testament to their fortitude and determination. Without the entrepreneurial spirit of these organizers, many of the charter schools that are educating children in Colorado today would have never opened their doors.

The solutions Colorado's charter school entrepreneurs have achieved for the facilities problem are as diverse as the charter school community itself. Charter schools have been located in all types of facilities including museums, abandoned courthouses,

churches, warehouses, grocery stores, strip malls, modular buildings, industrial space, and many others. The 64 operating charter schools are located in 77 facilities.[34] The type of facilities in which these schools operate is summarized in the following table.

Type of Facility	No. of Schools
Chartering district facility	20
Retail space/strip mall	13
Modular/portable building	11
Office space	7
Former church space	6
Warehouse/industrial space	4
Former grocery store	3
Owned school building	3
Residential facility (i.e., house)	2
College-owned facility	2
Contemporary log structure	1
Museum	1
City-owned facility	1
Abandoned courthouse	1
School within a school	1
Facility owned by district other than chartering district	1
Total	77

A school-by-school summary of the facilities occupied by Colorado charter schools is included in Appendix 3. As shown in the appendix, Colorado charter schools are currently educating a total of 17,472 students in over 1.5 million square feet of space at a total monthly cost of $511,729.

An Assessment of the Quality of Colorado Charter School Facilities

The quality of charter school facilities and their suitability for the educational mission of the charter schools varies widely. The most common comments received from charter school administrators concerning their facilities was that they were too small to accommodate their growing enrollment, the cost of maintenance was high, and, while there was usually sufficient room for classroom instruction, there was rarely sufficient playground space or athletic facilities. In addition, administrators expressed concern

about the cost of their facility and the fact that all such costs had to be paid out of operating budgets.

In evaluating data on this subject it should be kept in mind that "quality" and "suitability" are both subjective and relative terms, and evaluations using these terms necessarily vary by context. In this regard, differences in expectations probably accounts for why most charter school administrators rate their facilities as suitable even though most administrators of conventional public schools would undoubtedly be horrified if they were required to work in similar conditions (e.g., in a strip mall with a paved parking lot as a playground). Because of this difference in expectations charter school administrators tend to rate the quality of their facilities in functional terms and not in relation to the quality of conventional public school facilities. Indeed, practically none of the 64 charter schools in operation occupies a facility that is anywhere close to the quality of an average public school building.

In other words, the principal of a conventional public school would almost certainly rate "strip mall" space as having "poor" suitability/quality for a school, because he or she would naturally evaluate the space in relation to other conventional public schools. Charter school administrators, on the other hand, might rate such space as suitable because (1) they are thankful for having a facility of any kind in which to realize their educational dreams; and (2) they never expected to occupy a facility that is as good as a conventional public school anyway. And in fact none of the administrators of charter schools that occupy strip mall space said that their facilities are not adequate for their needs.

How Colorado Charter Schools Acquired Their Facilities

As noted above, finding an adequate facility for their proposed school is one of the most difficult tasks facing a charter school organizing committee, and the myriad ways in which the committees have tackled this thorny problem demonstrates their ingenuity and determination. While it is probably incorrect to say there is a "typical" way of addressing this issue, two of the most common methods for acquiring facilities are renting space found by the parents (often with the help of leasing agents) and negotiating with the chartering district for vacant district space. As set forth in the following table,

approximately two-thirds of Colorado charter schools have used one of these two methods to acquire their facilities.

Acquisition Method	No. of Schools
Commercial lease	28
Rent free district facility[35]	19
Commercial lease/purchase	6
Purchase with tax-exempt bond financing[36]	4
Donated facility	5
Purchase with commercial financing	2
	64

The data in the foregoing table is necessarily limited, because it is a summary of the end products of the 64 processes by which Colorado's charter schools have solved the facilities issue. The processes themselves, however, defy summarization, because they are as varied and diverse as the schools. Nonetheless, to demonstrate the determination and creativity of charter school organizers, some of the more innovate solutions are summarized in the following paragraphs.

Academy of Charter Schools in Adams County could not find an adequate facility in the boundaries of Adams 12, its chartering district. Accordingly, it expanded its search parameters and was ultimately able to lease an abandoned high school facility in a neighboring district. Aspen Community School's facility was built in 1978 by a group of parents, who formed an endowment that donated the facility to the school. Cherry Creek Academy acquired and renovated a church building with a $1.5 million commercial lease/purchase arrangement. Cheyenne Mountain Academy saved $500,000 of its operating revenues to use as a down payment on a $1.5 million purchase of a warehouse that it converted into school space. It borrowed the other $1 million from a commercial bank.

Colorado Visionary Academy has had an extremely difficult experience in finding a permanent location after its lease ran out on temporary quarters. After negotiating the purchase of an office building in Parker, the seller backed out, and as a result the school lost 100 students overnight and was facing closure. This failed real estate transaction has resulted in litigation. However, the school was able to negotiate a temporary lease of

several modular buildings at a district site while it attempts to obtain bond financing for a new permanent facility. Community Involved Charter School leases a large church building, which was specially purchased by a company and renovated for use as a charter school. This same company purchased a check printing plant, renovated it for use as a school, and leased it to Collegiate Academy.

Compass Montessori School acquired and renovated a former fruit market through a commercial lease/purchase arrangement. Eagle County Charter Academy occupies six modular buildings that were donated to the school by Vail Associates. In Durango the EXCEL School and Community of Learners School share a single facility, an old junior high building that had been abandoned by the district. Liberty Common School acquired and renovated for school purposes an industrial facility with a commercial loan guaranteed by some of the parents.[37]

Jefferson Academy proposed to use an abandoned district facility in its charter application, but the district rejected the application in part because it wished to use this building as a pre-school. At the hearing on Jefferson Academy's appeal the State Board of Education suggested that the district share the facility with the charter school. Therefore, when the school opened in 1994 it occupied half the building and the pre-school occupied the other half. However, in 1998 Jefferson Academy paid the district $50,000 to move the pre-school to another facility, and the following year it purchased the site from the district for $200,000.[38] The school is now in the process of expanding the facility through tax-exempt bond financing.

Marble Charter School occupies a completely remodeled 1912 school building owned by the Marble Historical Society, which donates part of the building to the school and uses the remainder as a museum. The Odyssey Charter School is in modular buildings attached to the commuter terminal at the old Stapleton Airport. The school acquired the facility through the cooperation of the Stapleton Development Corporation, the City of Denver, Cohen Brothers Homes, and several foundations.

The Pueblo School for the Arts and Sciences houses grades K-8 in an abandoned district facility, and grades 9-12 are in space donated by the University of Southern Colorado. Union Colony Charter School was able to acquire and renovate a church building with a grant from the Monfort Family Foundation. Similarly, Wyatt-Edison

Charter School occupies an historic structure that was recently renovated and donated to the school on a year-to-year basis by a local philanthropist.

Tax-Exempt Bond Financing by Colorado Charter Schools

One area in which Colorado is leading the nation is through giving a statewide financing entity specific authority to issue revenue bonds for the construction of charter school facilities.[39] In 1998 the General Assembly passed S.B. 98-82, which changed the name of the Colorado Postsecondary Educational Facilities Authority to the Colorado Educational and Cultural Facilities Authority ("CECFA") and expanded the list of eligible participants to include any organization that "provides an educational program pursuant to a charter from a school district."[40]

As set forth in the following table,[41] to date six charter schools have taken advantage of this new mechanism for obtaining tax-exempt financing sell a total of nearly $23 million in bonds to fund the acquisition of their facilities:

Date	School (Amount)	Use	Method of Sale	Rating	Final Maturity and Final Maturity Yield
2/99	Carbondale Community School[42] ($2,440,000)	Refinance acquisition of facility	Private	No	2024 6.25%
6/99	Liberty Common School ($3,660,000)	Refinance acquisition of facility	Private	No	2019 6.95%
8/99	DCS Montessori School ($7,235,000)	Build new facility	Private	No	2024 7.00%
9/99	Renaissance School ($3,690,000)	Build new facility	Public	S&P BBB-	2020 6.75%
10/99	Jefferson Academy ($2,600,000)	Refinance acquisition and add to facility	Public	S&P BBB-	2025 6.70%
10/99	Core Knowledge ($3,300,000)	Build new facility	Public	S&P BBB-	2029 7.00%

As indicated in the preceding table, three Colorado charter school bond offerings have been rated by Standard & Poors Corporation, a nationally-recognized bond rating agency.[43] In this aspect too, Colorado is leading the nation in that the Renaissance School and Jefferson Academy bond offerings are the first and second charter school bond transactions ever rated by a national rating agency.[44]

Roadblocks to Successful Charter School Capital Finance

In this section we will discuss some of the more significant difficulties Colorado charter schools face as they seek solutions to their facilities problems,[45] including (1) obtaining sufficient revenues to finance their facility acquisition; (2) TABOR Amendment limitations on their financial obligations; (3) obtaining access to tax-exempt financing; (4) uncertainty among local officials regarding their status as public schools; (5) the perception of the relative risk involved in their obligations; and (6) a scarcity of appropriate facilities.

Revenue for Charter Facilities

In addition to the monies they receive pursuant to the finance formula in the School Finance Act, all 176 Colorado school districts have access to a separate source of revenues for capital construction in that they are permitted to seek approval from their voters of separate property tax mill levies with which to fund capital projects. Conversely, charter schools have neither taxing authority nor defined geographical boundaries and therefore no direct access to this revenue source. Accordingly, charter schools must generally pay for their facilities by setting aside part of the operating revenues they receive from their chartering district. Since they must also pay for all of their operations from this same source of revenue, they are much more limited in the amount of money they can allocate their facilities needs.

TABOR Amendment Restrictions

In 1992 Colorado voters approved the addition of Article X, Section 20 (commonly referred to as the "TABOR Amendment") to the Colorado Constitution. The TABOR Amendment imposes certain spending, revenue and other limitations upon the state and its political subdivisions, including a requirement of voter approval for any "multiple-fiscal year direct or indirect debt or other financial obligation." While there has been no determinative court ruling on the TABOR Amendment's application to charter schools, there is general agreement in the financial community that because they are public schools, primarily funded by public monies, and subject to public accountability, charter schools are most likely subject to the TABOR Amendment.[46] Accordingly, TABOR's requirement of voter approval for multi-year financial obligations probably applies.

As a practical matter this means that charter schools can never issue traditional multi-year general obligation or revenue bonds to finance their facilities, because there is no way for them to obtain voter approval for such debt. Therefore, all charter school financial obligations that cannot be repaid in one fiscal year must contain "non-appropriation" clauses pursuant to which the charter school has an option each year whether to appropriate funds for the obligation. This in turn means that all charter facilities obligations must to some degree be treated by lenders as "non-recourse" obligations subject to so-called "nonappropriation" risk, and therefore lenders feel they must charge a higher interest rate to compensate for this additional risk.

Obtaining Access to Tax-exempt Financing

The ability to issue tax-exempt securities is very important to governmental issuers. Because investors are not generally required to pay income taxes on the interest on local governmental securities, they require a much lower interest rate than on a taxable transaction with similar risk. There are two ways for Colorado charter schools to obtain access to tax-exempt financing: (1) through so-called "conduit" financing; and (2) by directly issuing tax-exempt obligations.

As its name implies, conduit financing means that some other governmental entity serves as a conduit for the charter school to the tax-exempt market. In this type of transaction the conduit entity issues the obligations and loans the proceeds to the charter school, which is solely responsible for repaying the obligation. An obligation issued by the Colorado Educational and Cultural Facilities Authority ("CECFA") for a charter school is an example of conduit financing. The primary obstacle that charter schools have faced in obtaining conduit financing through CECFA has been the high transaction costs associated with this financing. Typically CECFA charges both an up-front fee and yearly "trailer" fees based on a percentage of the transaction. The up-front fees have ranged from $20,000 to $30,000; the trailer fees are a flat 5 basis points per year (i.e., .05%) of outstanding principal for the life of the loan.

As for direct issues by charter schools, the main obstacle has always been uncertainty about the schools' authority to issue tax-exempt governmental bonds. As discussed in detail above, in 1999 the General Assembly attempted to clarify this issue by enacting S.B. 99-52, which specifically stated that Colorado charter schools' obligations

are governmental obligations for purposes of determining whether interest on the obligations is exempt from state and federal income tax.

Shortly after S.B. 99-52 passed Jefferson Academy Charter School attempted to use the new statute to issue tax-exempt obligations directly. Unfortunately Kutak Rock, a prominent Denver bond counsel firm, opined to the Jefferson County School District board of education that the legislature had failed to accomplish its goal, and that Jefferson Academy had no authority to issue tax-exempt obligations. Consequently, Jefferson Academy was required to obtain tax-exempt financing using CECFA as a conduit.

Under Section 103 of the Internal Revenue Code of 1986,[47] states and their "political subdivisions" are entitled to issue tax-exempt bonds. IRS regulations define the term "political subdivision" for purposes of Section 103 as "any division of any state or local government unit which is a municipal corporation or which has been delegated the right to exercise part of the sovereign power of the unit."[48] Thus, the issue is whether a charter school has been delegated any of the state's "sovereign power." In a number of revenue rulings the IRS has determined that the three generally acknowledged sovereign powers of states are: (1) the power to tax; (2) the power of eminent domain; and (3) the "police" (i.e., regulatory) power. It is not necessary that all three of these powers be delegated. However, possession of only an insubstantial amount of any or all of the powers is not sufficient. In resolving the issue in a given case, all of the facts and circumstances must be taken into consideration, including the public purposes of the entity and its control by the government.[49]

Clearly, school districts exercise two of the three sovereign powers (taxation and eminent domain). However, based upon informal discussions, it is our understanding that some Colorado bond lawyers are concerned that under existing law charter schools do not exercise separately sufficient sovereign power to give them the authority to issue tax-exempt bonds in their own right.

Uncertainty Regarding Public School Status

Colorado statutes give local school districts significant flexibility in selecting the sites for, and in managing the construction of, public school facilities. Specifically, pursuant to C.R.S. Section 22-32-124 local boards of education are entitled to "finally determine" the location of public schools notwithstanding local zoning laws. And in

addition, this same statute gives the Colorado Department of Labor authority to establish uniform, statewide guidelines for public school building permits, construction inspections and certificates of occupancy which supercede local codes.

Colorado charter schools have generally taken the position that since they are public schools this statute applies to them as well. For example, relying on the authority contained in this statute, Collegiate Academy of Colorado occupied its present facility over the objections of the Jefferson County Planning Commission. In addition, Mr. Wayne Horn, the official in charge of the public school building department of the Colorado Department of Labor, has taken the position that the statute applies to charter schools and has issued building permits and conducted inspections of charter schools under construction in the same manner as conventional public schools.

However, some local officials have taken the position that charter schools are, in effect, private schools and therefore subject to their local building and zoning codes. This difference of opinion has created a situation in which a charter school may become stuck in the middle of a jurisdictional dispute between competing regulatory agencies. This would create time delays in constructing facilities and add to the cost of the charter school's construction project.

The Perception of Risk

One of the fundamental tenants of economics is that there is a direct relation between the risk associated with a transaction and the return an investor must receive to participate in it. In other words, the riskier a transaction is perceived to be, the greater a return investors will demand for the use of their capital. For two reasons this is not generally a significant impediment to conventional schools' obtaining capital at attractive interest rates. First, investors can be assured that there is a very high likelihood that a public school district will continue to exist for the indefinite future, because public schools remain the primary providers of educational services in our country. Secondly, most school district bonds are backed by the "full faith and credit" of the district (i.e., the district has agreed to levy taxes sufficient to pay the debt), and therefore investors usually have a high level of confidence that they are going to be repaid.

Charter schools, on the other hand, have no taxing power. Moreover, any guarantee that a charter school will survive no matter how poorly it performs would

undercut one of the primary purposes of the charter school movement – to restore accountability to the public school environment by requiring failed schools to shut their doors. In other words, by creating greater accountability for charter schools the General Assembly has created a risk that conventional schools have historically not been required to face – the risk of going out of business if they fail.

For investors this means that there is no possibility that a charter school will have pledgable tax revenues to pay their obligations, and it also means that there is at least some risk that a given school's charter could be revoked or non-renewed. And this means that investors will demand greater returns in order to compensate them for accepting this risk, or, in some cases risk-adverse investors may refuse to lend to charter schools at all.

In addition to the risk associated with the limited duration of charters and charter schools' lack of taxing authority, investors typically charge a premium to charter schools simply because they are relatively new entities. In this regard charter schools are like any other new business. Until they establish a track record they are likely to be looked upon as risky investments by potential investors.

Both major national bond rating agencies have recently issued publications in which they cited the risks discussed above as major factors in determining the credit-worthiness of charter schools. In a December 7, 1999 press release Erin Gore-Purcell of Moody's Investors' Services noted that charter schools have

> some credit negatives, including the short track record of operations for charter schools and the risk that a school's charter may be revoked by a state, local school district, or university prior to proposed debt maturity. We also believe that charter schools can carry more credit risk than existing public school systems, because charter management teams face additional pressures generated by typically smaller budgets, less flexibility in expenditures, and fewer funding dollars per pupil.

Similarly, in the May 31, 1999 issue of *Standard & Poor's CreditWeek Municipal* analyst Jeffrey Thiemann noted that "access to capital . . . can be a significant hurdle, as charter schools' creditworthiness is mostly untested." Mr. Thiemann noted that limited charter terms and short track records are unique credit challenges faced by charter schools; however, a legal framework that protects charter schools against arbitrary charter

revocations – such as the appeals process already in place in Colorado – helps diminish these risks.

Scarcity of Resources

Finally, the relative scarcity in some areas of buildings that are appropriate for school purposes may be an impediment to charter schools' obtaining appropriate facilities. This is especially true among urban charter schools. For example, P.S. 1 is located in a rapidly growing and revitalized area of downtown Denver. It has a ten year lease on its facility and no option to purchase. A number of new high-rises are under construction in the immediate area, and the administrators of the school are quite understandably fearful that when their lease runs out they will no longer be able to afford to meet the landlord's rental demands.

Overview of Public School Capital Finance

This section provides a general overview of the finance mechanisms that have traditionally been used by public schools to obtain capital for their facilities needs. The potential availability of these traditional mechanisms for use by Colorado charter schools is also discussed.

Commonly Used Capital Finance Mechanisms

Historically, public schools have financed their capital project needs using one of three methods – general obligation bonds, revenue bonds, or lease/purchase financing. While there are a multitude of variations on these three themes, almost all public school financings fall within one of these broad categories.

When a school district issues general obligation bonds it pledges the "full faith and credit" of the district to repay the principal and interest on the debt. In Colorado general obligation bonds must first be approved by the voters residing in the school district. If voter approval is obtained, a district may issue bonds up to 20% of the assessed value (25% for districts with growing enrollment) or 6% of the actual value of the taxable property in the district.[50] Once the bonds have been issued the school district certifies a property tax mill levy to the county or counties in which the district is located, and the revenues produced by this mill levy are placed in a bond redemption fund to be used to pay principal and interest as they become due.[51] As mentioned above, Colorado charter schools do not have access to this type of financing, because they have no taxing power and there is no practical way for them to seek voter approval for their bonds. To date, no district has sought approval from its voters for a bond mill levy specifically designed to finance buildings for charter schools.

When a school district issues revenue bonds the obligation to make payments is limited to revenues received from a specific source, such as user fees or revenues derived from a specific enterprise. Even though revenue bonds do not obligate the full faith and credit of the district, in Nicholl v. E-470 Public Highway Authority[52] the Colorado Supreme Court nevertheless held that they are subject to the voter approval provisions of the TABOR Amendment, because they are multiple-fiscal year obligations under section 4(b) of the TABOR Amendment. Accordingly, a school district must seek voter

approval to issue revenue bonds unless the bonds are issued by a separately established, self-supporting "enterprise" owned by the district.[53]

Thus, Colorado charter schools may not issue revenue bonds, because they do not qualify as an "enterprise" due to the fact that they receive more than 10% of their revenues from other governmental entities (i.e., their chartering district), and, as discussed before, they cannot obtain voter approval for such bonds.

The final commonly used school district capital finance mechanism is the lease-purchase finance transaction. School districts frequently use leases to acquire capital items. Some leases, especially those involving minor equipment are "true" leases where the parties contemplate that the district will use the property and pay lease payments for a certain term at the end of which the property will be returned to the vendor. Long term leases are also, however, used to finance capital projects as a substitute for bond financing. In these cases, the lease rentals are calculated to amortize the entire cost of the leased property, and the lessee is given the option to purchase the property for a nominal fee at the end of the lease term. Interests in a capital lease can be divided up and sold separately as "certificates of participation" (often called "COPs").[54]

One aspect of lease-purchase financing that makes it attractive to many governmental issuers is that these transactions can be structured to avoid voter approval requirement by including a so-called "non-appropriation" clause in the lease. This means simply that the lease is subject to annual appropriations by the government lessee and is therefore cancelable without penalty on a year-to-year basis. In Board of County Commissioners v. Dougherty, Dawkins, Strand & Bigelow, Inc.,[55] the Colorado Court of Appeals held that a lease-purchase transaction that includes an annual right of non-appropriation is not subject to the voter-approval provisions of the TABOR Amendment. The Court of Appeals' holding on this issue (if not its analysis) was approved by the Supreme Court in the case of Submission of Interrogatories on House Bill 99-1325.[56]

Accordingly, since the lease payment obligations in a lease-purchase transaction may be paid from any source of revenue available to the issuer, including operating revenue, and since the transactions can be structured so that voter approval is not required, this type of capital financing is the one type of commonly used finance mechanism that is available for use by Colorado charter schools.

Conduit Financing

Colorado school districts do not typically use conduit financing to finance their capital construction needs, because they are able to obtain direct access to the capital markets by issuing their own financial obligations. As discussed in more detail above, despite the legislature's efforts to clarify the matter, bond counsel for at least one district has opined that there is some question about whether Colorado charter schools have the authority to issue directly tax-exempt obligations. Therefore, for most charter schools, conduit financing remains the only viable alternative to obtain access to the tax-exempt bond market.

In a typical conduit financing the "issuer" of the obligations loans the money generated by the offering to a third-party. The bonds issued are usually "non-recourse" to the issuer, which means that repayment is limited to amounts received from the third party obligor under a loan, lease or installment purchase agreement. Therefore, in a typical conduit financing the credit-worthiness of the actual issuer of the bonds is of little importance to the investors, because they will not be looking to the issuer for repayment. Instead, the investors' will focus on the credit of the third party obligor that will actually be responsible for repayment of the loan.

While there is no legal impediment to certain other governmental entities serving as conduits for charter schools (e.g., home rule cities or even chartering districts), to date the six Colorado charter schools that have obtained tax-exempt financing for their capital projects have all used CECFA as the conduit. Typically in these transactions, a non-profit corporation is established to hold the property. This corporation borrows the funds raised by CECFA in the bond offering and uses it to pay for the acquisition or construction of the capital facility on behalf of the charter school and grants a mortgage on the property to the bond trustee to secure repayment of the bonds. The charter school then enters into a lease agreement containing a non-appropriation clause pursuant to which it leases the facility in return for lease payments designed to amortize the bonds.

In assessing the risk of these transactions bond investors and rating agencies look to: (1) the creditworthiness of the charter school; (2) the value of the collateral the school proposes to use as security for the loan; and (3) the loan covenants regarding the charter school's ability to maintain the collateral in good condition.

Loan Pools

In a loan pool an amount of money is set aside or "pooled," for a particular purpose, and various entities then access the funds through separate loans. The California Charter School Revolving Loan Fund is an example of a loan pool established especially for charter schools. The California legislature has set aside $5.5 million dollars in this fund, and any start-up charter school can access the pool in its first year to lease a facility, make improvements to its facility or purchase equipment.

In Colorado CECFA, in cooperation with the Colorado League of Charter Schools, has been working for the past several months to establish a "pool" that is a variation on this theme. In the CECFA program a single bond investor has committed to acquire $10 to $15 million in CECFA charter school revenue bonds, with the targeted loan size being between $500,000 and $2 million. According to Jim Griffin, Executive Director of the Colorado League of Charter Schools, the focus of this pool will be (1) to provide low-transaction cost tax-exempt bond financing to smaller charter schools; and (2) to finance smaller projects for larger charter schools. As of the date of this study no loans have been issued through this pool, and its effectiveness in providing low-cost capital to small, high-risk charter schools remains untested.

Credit Enhancement

Many school districts use credit enhancement devices to improve their access to the bond markets or improve the pricing on their bonds. Credit enhancement can be as simple as a guarantee by a more creditworthy governmental or private entity, or school districts frequently purchase special bond insurance polices or letters of credit, pursuant to which, in return for a fee, an insurance company or bank agrees to guarantee payment of the bonds, thus substituting its credit for the school district's.

State of Colorado Intercept

A specific type of credit enhancement program already in place for conventional school districts is the State of Colorado Intercept Program. The program, optional to the district, produces an automatic credit rating of "AA-" to urban and rural schools. The district elects to participate in the program; and once it elects to do so, the State Treasurer is authorized to "intercept" the schools funding under the School Finance Act should a

local bond mill levy collection be insufficient. This state enhancement program is not currently available to charter schools.

Other States' Experience with Charter School Capital Finance

This section will provide an overview of other states' experience in helping their charter schools solve their capital finance needs.[57]

Providing Separate Revenues for Capital Finance Requirements

Four states and the District of Columbia have addressed charter schools' inability to access separate revenues to finance their facilities costs by establishing special revenue allocations to pay for charter school capital needs. Arizona provides up to $1,200 per student in capital money based upon the amount received by school districts for capital. The District of Columbia provides $600 per student, which is 60% of the per pupil capital expenses district-wide.

In Florida charter schools are eligible for up to $587 per student for their capital needs. This amount is based upon a statutorily established projected cost of constructing a new elementary, middle or high school, which is in turn simply divided by 30, the idea being to divide the cost of the facility over 30 years. Florida also has a program pursuant to which a district in which a charter school is operating is eligible for a one-time payment of up to $8,800 for each charter pupil in the district. Districts generally use these monies to assist their charter schools with the capital needs. For example, Escambia Charter School received nearly $1.3 million under this program in 1998.

In Massachusetts the legislature approved a one-time appropriation of $260 per student for charter school capital needs in the 1998-99 school year. In Minnesota the state reimburses charters for 90% of the actual cost of their lease obligations or $1,500 per student, whichever is smaller.[58] This aid has lead to five Minnesota charter school bond sales to date, ranging from $1.7 to $4.5 million per transaction.

Providing Access to Tax-exempt or Equivalent Financing

As mentioned above, Colorado leads the nation in providing ready access to tax-exempt conduit financing through a statewide bonding authority. North Carolina, Texas and Arizona statutes now provide for similar programs.

Other states have met this challenge by providing "tax-exempt equivalent" loan financing for their charter schools. For example, the California Charter School Revolving Loan Fund described above provides interest free loans of up to $250,000 to help start-up charter schools with their capital and other needs.[59] The Chicago school district established a $2 million loan pool administered by the Illinois Facilities Fund, which offers loans with an interest rate of 5 percent. Illinois has also established a charter school revolving loan fund (funded primarily with federal charter school grants)[60] which will provide interest free loans to charter schools for start-up and facilities costs.

In addition to these public programs, a number of privately-capitalized charter school loan pools have been established in other states. The Connecticut Health and Education Facilities Fund provides loans up to $150,000 at interests rates of 5.9 percent.[61] The Financial Foundation for Texas Charter Schools is a $3 million pool that provides working capital loans at interest rates of 4 to 5 percent.[62] The National Cooperative Bank has recently established a loan program for charter schools,[63] and Prudential's Social Investments Program has loaned more than $6 million to New Jersey charter schools, with plans to expand to other states.[64]

Surplus Property Programs

In the District of Columbia charter schools have been given an opportunity to bid on favorable terms when vacant schools go on the market. Under this program charters can obtain the space for up to 20% below the otherwise lowest bid made.[65]

Extending Charter Terms

In Florida H.B. 99-2147 allowed charter terms to be extended up to 15 years.

Requiring Districts to Provide Facilities

In the Spring of 2000 California voters will vote on a ballot initiative that would require school districts to provide facilities for charter schools that are reasonably equivalent to other school facilities.

Policy Recommendations

Principles to Guide Policy Choices

Like all policy choices, educational policy decisions are made in the context of agreed-upon principles, and in this section we will set forth for consideration a few such principles that, in our view, policymakers should consider as they deal with charter school facilities issues.[66]

1. Level Playing Field. In Colorado we have challenged our charter schools – and every charter school that has opened has accepted the challenge – to establish specific, measurable goals for delivering high-quality education and then stand ready to be held accountable for whether those goals are attained. It seems axiomatic, therefore, that charter schools should not have to operate at a disadvantage as they struggle to achieve the goals for which they will be held accountable. Instead, charter schools should play on a level playing field, both in terms of operational revenue as well as facilities financing.

With H.B. 99-1113 the legislature went a long way toward leveling the playing field with respect to operational revenue. It should also consider leveling the facilities revenue playing field by giving charter schools access to some of the same advantages that school districts already enjoy, including access to low-cost capital, a revenue stream above and beyond operating funds to pay for facilities, and public guarantees of capital obligations. Necessarily, charter schools will not be able to obtain these advantages using the same mechanisms as school districts. For example, charter schools should not be granted direct taxing authority to obtain public guarantees of their financial obligations. Instead, the same result can be achieved through other means. For instance, the state could replicate the advantages afforded by access to tax revenues by establishing a publicly funded credit enhancement program. The idea is not to make charter schools into micro-school districts, but to take steps that will level the facilities playing field between charter schools and conventional public schools.

2. Equal Access. Opportunities to form charter schools must be equally available across the state. Charter school operators in poor districts should have the same opportunity to finance their facilities as their peers in wealthier districts. A child is a

child no matter where he or she happens to live, and in a just society location should never be determinative of educational opportunity.

3. Flexibility. Clearly the Charter Schools Act is designed to provide maximum local autonomy for charter schools. Indeed, that is one of its fundamental purposes. Therefore, funds received from the state or other sources for capital needs should never come with "strings" attached beyond those minimal standards necessary to ensure the funds are spent for the purpose for which they were appropriated.

Policy Recommendations

With the foregoing principles in mind, the authors respectfully submit the following policy recommendations for consideration by Colorado policymakers.

1. Facilities Revenue. The legislature should consider providing charter schools a separate source of capital revenue in addition to the operating revenue they currently receive from their chartering districts. In this regard, the Minnesota model is particularly attractive from a "level playing field" perspective. To accomplish this goal, the Department of Education could report to the legislature the total amount of capital spending of all Colorado school districts each year (i.e., the sum of their payments on debt service on all bond issues). This figure would then be divided by the total number of Colorado public school students to arrive at a statewide average capital expenditure per student. This figure would then serve as a basis for state assistance for charter school capital needs.

The authors would also note that there is no reason to limit this statewide capital aid to charter schools. It should be made available to any school district that does not have sufficient local resources to meet its facilities needs. Indeed, there is already a statutory mechanism in place for this purposes in Part 43.7 of Title 22 of the Colorado Revised Statutes, although it has never been funded.

2. Clarify Zoning/Building Code Issues. A policy recommendation that can be implemented at no cost, yet which would prove tremendously beneficial to charter schools, would be to amend the Charter Schools Act to clarify that the zoning and building code provisions of Colo.Rev.Stat. § 22-32-124 apply to charter schools. This would clarify that charter schools have the same flexibility in meeting their facilities

needs that school districts already enjoy at least with respect to exemption from local zoning and building permit codes.

3. Establish a Direct Loan or Credit Enhancement Pool. The legislature should consider establishing a direct loan pool for charter schools similar to those already in place in California and Chicago. In this way the state could provide facilities capital to smaller and newer charter schools that would not otherwise have access to low-cost financing. In this regard, the federal charter school grant program provides that up to 10% of a state grant can be used to create a revolving loan fund to help charter schools with start-up costs, including facilities costs.

A variation on this theme would be to establish a "risk reserve" or "credit enhancement" pool. In this method the funds in the pool are not loaned directly to charter schools. Instead, the funds serve as a loss reserve/guarantee which would be used to reduce the risk of charter school transactions and thus provide greater incentives for private lenders to loan to charter schools at lower costs. If a charter school covered by the pool fails, the lender would be able to recoup its loss from the loss reserve. Since only a small percentage of charter schools can be expected to go out of business, each dollar placed in a loss reserve pool can be used to leverage several more dollars in private financing.

Finally, yet another credit enhancement device the legislature could consider making available to charter schools is participation in the state "intercept" program described above.

4. Open Capital Reserve Funds for Lease Transactions. As discussed above, pursuant to H.B. 99-1113, charter schools are now required to transfer the "mandatory transfer" amounts set forth in Colorado statute to their capital reserve and risk reserve funds. Pursuant to Colo.Rev.Stat. § 22-45-103(1)(c), funds transferred into a capital reserve fund may be used for a lease-purchase capital transaction, but they may not be used for a normal commercial lease. This limitation makes sense with respect to school districts, which for the most part own practically all of their facilities. However, nearly half of Colorado charter schools occupy leased facilities. Consequently, the legislature has inadvertently created a situation in which these schools are required to transfer their facilities monies into funds from which they are prohibited from paying for the facilities

they actually occupy. Accordingly, the Charter Schools Act should be amended to provide that a charter school may use the mandatory transfer amounts for both the purposes set forth in section 22-45-103(1)(c) as well as for the purpose of paying the cost of leasing their facilities.

5. Clarify Renewal Standards. As discussed above, one reason investors perceive charter school loans as risky investments is because there is always at least a theoretical policy that the school's charter will be revoked or non-renewed. Colorado is already far ahead of many states on this issue, because of: (1) the effective appeal procedures provided in the statute; and (2) the flexibility it gives districts to grant longer charters to enhance financing. Accordingly, investors can be assured that a Colorado charter school will not be closed unless it is actually failing to meet its educational mission.[67]

This assurance can be strengthened, however, by giving the State Board of Education authority to reverse a local board's decision to revoke or non-renew a charter if it finds that the decision was arbitrary or capricious. This standard would be in addition to the "best interests" standard already in the statute. By giving investors further assurance that the schools they loan to are protected from an arbitrary non-renewal of their charter, the perceived risk associated with the loan will be reduced and therefore the cost of borrowing can be decreased.

6. Incentives for Local Governments to Act as Conduits. The legislature should consider providing incentives to local governmental agencies, including chartering school districts, to provide conduit financing to charter schools. This increased competition for conduit services will act as a market check on the Colorado Educational and Cultural Facilities Authority and perhaps lead to lower transaction costs for charter schools as they access the tax-exempt bond market.

7. Seek Clarification of the "Direct Issue" Provisions of the Statute. Until the obstacles regarding Colorado charter schools' status as tax-exempt issuers are overcome, it will be difficult, if not impossible, for charter schools to take advantage of the provisions of S.B. 99-52. Therefore, the legislature should consider directing Legislative Legal Services to seek a ruling on this issue from the IRS with regard to Colorado charter schools.

When Colorado charter schools possess direct issue authority, the authors would also recommend that the legislature consider a further addition to the statute designed to protect the integrity of the market for Colorado charter school bonds. Not all charter schools are equally sophisticated or have equal ability to assess their ability to finance their capital needs. Accordingly, the legislature should take steps to ensure that charter schools do not obtain funds in the public securities markets when they are not qualified to do so. To accomplish this goal, the legislature should consider requiring a charter school to sell its obligations through private placements to accredited investors unless the school is able to demonstrate that its obligations are sufficiently secure (e.g., by obtaining an investment grade rating from a national rating agency) to justify participation in the public securities markets.

8. Give Colleges and Universities Authority to Build Charter Schools. The UNC Lab School in Greeley is an example of how a charter school and a university can cooperate in providing educational options for their community. This school has actually been in existence for over 100 years but only recently converted to charter school status. To further this type of cooperation at other colleges and universities around the state, the legislature should consider providing institutions of higher learning specific authority to construct associated charter schools with their capital funds.

9. Tax Credits for Charter School Loans. Congress recently created the Qualified Zone Academy Bond ("QZAB") program which provides tax credits for lenders that provide financing for qualified schools in low income areas. The tax credit is roughly equal to the interest the lender would have received on the loan; therefore lenders can finance qualified school facilities at no cost or at very low cost. The legislature should consider establishing a similar tax credit against Colorado taxes to provide lenders an incentive to make low cost loans to charter school capital construction. Again, the authors see no reason to limit this program to charter schools, and discussions of this policy option should include all public schools, especially those in low income areas of the state.

10. Preferences for Charter Schools to Occupy Vacant Public Space. The legislature should consider creating a program similar to the District of Columbia program, pursuant to which charter schools are given special bidding rights for vacant

public school space. In this way local school districts will benefit by being able to sell school space that might otherwise be difficult to sell due to its school-specific design, and charter schools will benefit from below-market purchase prices. Similarly, the legislature should consider directing public entities with vacant/surplus space to advertise that space to charters and make it available to them on a preferential basis.

11. Property Tax Exemption. The authors are unaware of any charter school that has been required to pay property taxes on its facilities. However, there is always a possibility that, unless this issue is specifically clarified, a local tax assessor will attempt to levy taxes against a charter school's property. Therefore, the legislature should consider amending the Charter Schools Act to specifically state that real property used by a charter school for its educational mission is exempt from property taxation to the same extent as other public school property, irrespective of whether the property is owned or leased.

12. Tax Credits for Private Facilities Pools. The legislature should consider providing incentives for the creation of private direct loan pools or credit enhancement pools by establishing a tax credit from Colorado taxes for donations to such pools.

13. Incentives for Local Districts to Allow Charter Schools to Participate in the Proceeds of Bond Offerings. The legislature should consider creating special financial incentives to compensate local school districts that set aside part of the proceeds of any local bond offering for building charter school facilities.

14. Arbitrage Rebate Exemption Program. The legislature and governor should consider working with the Colorado Congressional delegation in an effort to create another school facility investment pool that is exempt from the arbitrage rebate provisions of the federal tax code. All public schools, including charter schools, would be eligible to participate in the program, much like the original Colorado Association of School Boards' lease-purchase finance program, which was in operation from 1989 to 1992.

15. Charter School Capital Improvement Zones. Colorado statutes provide for the creation of special "school district capital improvement zones" within school districts.[68] The idea behind these capital improvements zones is that a limited area of the school district can form its own special zone and request voter approval of a bond mill

levy that would be levied against only property in the zone, and not against property in the district as a whole. Section 102 of this statute sets forth who may form a capital improvement zone. The legislature should consider amending section 102 to add charter schools as entities that may petition their local board of education to create a capital improvement zone for their capital constructions needs. If the board of education were to approve the charter school's plan it would be submitted to a vote of the electorate in the special zone. If those voters agree to a tax levy to support the charter school in their area, the county would then levy and collect a tax to pay the principal and interest on the charter school's capital improvement bonds. This plan would not give charter schools the power to levy taxes, because any plan would require approval of the local school board and the voters in the special district. This feature might be especially attractive to rural charter schools (e.g., Marble Charter School) that are the only schools in a limited area of the county.

ENDNOTES

[1] From a speech delivered by Governor Bill Owens at the Independence Institute's annual Founder's Night dinner on December 2, 1999.
[2] Id. See also, David S. D'Evelyn and Marilyn Blackmon, "Charter Schools: Colorado's Mandate for Change," Independence Institute Issue Paper No. 11-93, April 1993. Mr. D'Evelyn died in an airplane crash shortly after the Charter Schools Act was passed.
[3] The Connect School in Pueblo was actually the first charter school to be approved. However, Academy Charter School was the first school to open.
[4] Colorado Department of Education's *Colorado Charter School Handbook* ("*CDE Handbook*"), pg. 2.
[5] Of the 69 approved schools, 64 are currently in operation and 5 are under development. A list of operating Colorado charter schools at the beginning of the 1999-2000 school year is attached as Appendix 2. In some respects, it is difficult to express the number of "charter schools" in Colorado due to the difference between the number of "charters" approved and the number of physical charter schools. This difference results from the fact that in some cases multiple schools are operated under the same charter (e.g., Aspen Community School/Carbondale Community School and the two Edison schools in Colorado Springs), while in some cases one school is operated under multiple charters (Jefferson Academy is a K-12 school operated under three charters, though a merger application is pending.). The Colorado Department of Education anticipates that approximately 12 to 15 new charter schools will be created and operating during the next school year.
[6] *Colorado Charter School Handbook*, pg. 2.
[7] Id.
[8] Information obtained from the League of Charter Schools, Jim Griffin, Executive Director.
[9] 873 F.Supp. 434 (D.Colo. 1994), aff'd 85 F.3d 481 (10th Cir. 1996).
[10] 984 P.2d 639 (Colo. 1999).
[11] ____ F.Supp.2d ____, (D.Colo. 1999).
[12] ____ P.2d ____ (Colo.App. 1999).
[13] Colo.Rev.Stat. § 22-30.5-102. The full text of the Charter Schools Act is included as Appendix 1.
[14] Colo.Rev.Stat. § 22-30.5-104(1)-(3).
[15] Colo.Rev.Stat. § 22-30.5-104(4)-(5).
[16] Colo.Rev.Stat. § 22-30.5-104(6)-(7)(a).
[17] Colo.Rev.Stat. § 22-30.5-112(2)(b).
[18] Colo.Rev.Stat. § 22-30.5-105.
[19] Colo.Rev.Stat. § 22-30.5-106.
[20] Colo.Rev.Stat. § 22-30.5-107.
[21] Colo.Rev.Stat. § 22-30.5-107.5.
[22] Colo.Rev.Stat. § 22-30.5-108.
[23] Colo.Rev.Stat. § 22-30.5-110.
[24] Id.
[25] Colo.Rev.Stat. § 22-30.5-111.
[26] Colo.Rev.Stat. § 22-30.5-112.
[27] Colo.Rev.Stat. § 22-54-101 et seq.
[28] An exception to this rule is districts with 500 or fewer students. In these districts the charter school can choose to receive either one hundred percent of the district per pupil revenues less the school's share of actual central administrative overhead or a flat eight-five percent of the district's per pupil revenues.
[29] Jefferson County Public Schools, *The Messenger*, December 1999/January 2000, pg. 1.
[30] Colo.Rev.Stat. § 22-54-105(b).
[31] Jefferson County Public Schools Comprehensive Annual Financial Report for the fiscal year ended June 30, 1998. (The most recent year for which data is available).
[32] Jefferson County School District actually received over $6,000 per student. The figure above does not include revenues from special revenue and certain other funds.
[33] However, Jefferson County School District has informed its charter schools that it does intend to allocate a portion of the proceeds of a recent mill levy override to these schools. This will amount to approximately $50.00 per student.

[34] Some schools are located in two sites or in two different types of facilities at the same site, which accounts for there being more locations than schools.

[35] The difference between the 19 district facilities set forth in this table and the 20 district facilities set forth in the table above is accounted for by the fact that one charter school (Colorado Springs Edison) operates in two separate district-owned facilities.

[36] Other schools that are currently leasing their facilities are in the process of obtaining tax-exempt bond financing or have already obtained such financing and are in the construction phase of their project and have therefore yet to occupy the facility.

[37] The facility was later refinanced through a tax-exempt bond financing.

[38] The facility had recently been appraised at $1.4 million. Thus, the district sold the site to the charter school at a substantially discounted price.

[39] "Paying for the Charter Schoolhouse: Policy Options for Charter School Facilities Financing," a February 1999 publication of the Charter Friends Network financed by the United States Department of Education. According to this report as of the beginning of 1999 North Carolina was the only other state to provide for a statewide charter school bonding authority. However, in 1999 Texas and Arizona passed similar legislation.

[40] 1999 Colo.Sess. Laws, Chapter 182.

[41] The information in this table was provided by Kirkpatrick Pettis.

[42] The bonds were issued for this school by the Aspen Research Foundation.

[43] A "BBB" rating is an investment grade rating that means the rating agency regards the bonds as having an adequate capacity to pay interest and principal. The addition of a plus (+) or minus (-) indicates relative standing within a major rating category. Standard & Poors Municipal Finance Criteria, pg. 4.

[44] *Denver Rocky Mountain News*, September 25, 1999, Section B.

[45] Much of the information in this section is based upon "Paying for the Charter Schoolhouse: Policy Options for Charter School Facilities Financing," a February 1999 publication of the Charter Friends Network financed by the United States Department of Education (hereinafter "Charter Schoolhouse Report"). The Charter Schoolhouse Report can be obtained online at http://www.charterfriends.org/facilities.html.

[46] See also, King v. United States, ____ F.Supp.2d ____, (D.Colo. 1999) (charter school is an agency, instrumentality and political subdivision of its chartering district and as such is a public entity).

[47] 26 U.S.C. § 103.

[48] 26 C.F.R. § 1.103-1(b).

[49] See e.g., Revenue Ruling 77-164, 1977-1 C.B. 20. The issue of whether charter schools are "governmental" in nature has been resolved in other contexts. For example, in a July 9, 1997 private letter ruling the IRS determined that Michigan charter schools were an "instrumentality" of the state and were thus "governmental units" for purposes of the Code's limitations on "private activity bonds." PLR 97-41013. In another case the IRS ruled that charter schools are an "agency or instrumentality" of the state under section 414(d) of the Code. PLR 95-16049 (January 23, 1995). Finally, as discussed above, the Colorado federal district court has ruled that a charter school is an agency, instrumentality and political subdivision of its chartering district and thus a public entity entitled to the protections of the Governmental Immunity Act. King v. United States supra, note 9. However, the specific issue of whether a charter school is a "political subdivision" under section 103 of the Code has not been addressed.

[50] Colo.Rev.Stat. § 22-42-104.

[51] Colo.Rev.Stat. §§ 22-42-118 and 119.

[52] 896 P.2d 859 (Colo. 1995).

[53] Section 2(d) of the TABOR Amendment defines an "enterprise" as "a government-owned business authorized to issue its own revenue bonds and receiving under 10% of annual revenue in grants from all Colorado state and local governments combined."

[54] The most extensive use of lease-purchase financing by Colorado school districts was in connection with the Colorado Association of School Board's $300 million lease-purchase finance program that was in operation of from 1989 to 1992. This program was particularly attractive to school districts, because the obligations issued in the program received a special exemption from the "arbitrage rebate" provisions of the federal tax code. Briefly, this meant that the school districts involved in the program could borrow money at tax-exempt rates and lend the proceeds at taxable rates and pocket the spread between the two rates,

which is called "arbitrage." Without the special exemption, arbitrage generated on a tax-exempt obligation must generally be rebated to the federal government.

[55] 890 P.2d 199, 206-07 (Colo.App.1994).

[56] 979 P.2d 549 (Colo. 1999).

[57] Much of the information in this section is based upon the Charter Schoolhouse Report, note 47, supra.

[58] High school students are counted as 1.3 students. Thus, the actual amount that could go to a school is $1,900 per high school student. This program is described at www.revisor.leg.state.mn.us/stats/124D/11.html.

[59] The California Department of Education memo describing the program can be obtained online at www.cde.ca.gov/charter/funding/revloan2.html.

[60] Illinois S.B.99-648.

[61] www.chefa.com.

[62] www.charterstexas.org.

[63] www.ncb.com.

[64] www.prudential.com/community/corporate/cmczz1005.html.

[65] This policy is online at www.k12.dc.us/DCPS/policies/other_policies.html/disposition_amend.html.

[66] Much of the information in this section is based upon the Charter Schoolhouse Report, note 45, supra.

[67] The actual statutory standard for non-renewal is set forth in Colo.Rev.Stat. § 22-30.5-110(3), which provides for a four factor test to determine whether the school is meeting its educational mission. The four factors are whether the school: (1) materially breached its charter contract; (2) failed to make reasonable progress toward achieving the content or pupil performance standards in its application; (3) engaged in fiscal mismanagement; or (4) violated a provision of law.

[68] Colo.Rev.Stat. § 22-43.5-101 et seq.

APPENDIX 1 – THE COLORADO CHARTER SCHOOLS ACT

22-30.5-101 – Short title.

This part 1 shall be known and may be cited as the "Charter Schools Act".

22-30.5-102 – Legislative declaration.

(1) The general assembly hereby finds and declares that:

(a) It is the obligation of all Coloradans to provide all children with schools that reflect high expectations and create conditions in all schools where these expectations can be met;

(b) Education reform is in the best interests of the state in order to strengthen the performance of elementary and secondary public school pupils, that the best education decisions are made by those who know the students best and who are responsible for implementing the decisions, and, therefore, that educators and parents have a right and a responsibility to participate in the education institutions which serve them;

(c) Different pupils learn differently and public school programs should be designed to fit the needs of individual pupils and that there are educators, citizens, and parents in Colorado who are willing and able to offer innovative programs, educational techniques, and environments but who lack a channel through which they can direct their innovative efforts.

(2) The general assembly further finds and declares that this part 1 is enacted for the following purposes:

(a) To improve pupil learning by creating schools with high, rigorous standards for pupil performance;

(b) To increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low-achieving;

(c) To encourage diverse approaches to learning and education and the use of different, proven, or innovative teaching methods;

(d) To allow the development of different and innovative forms of measuring pupil learning and achievement;

(e) To create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site;

(f) To provide parents and pupils with expanded choices in the types of education opportunities that are available within the public school system;

(g) To encourage parental and community involvement with public schools;

(g.5) To address the formation of charter schools;

(h) To hold charter schools accountable for meeting state board and school district content standards and to provide such schools with a method to change accountability systems.

(3) In authorizing charter schools, it is the intent of the general assembly to create a legitimate avenue for parents, teachers, and community members to take responsible risks and create new, innovative, and more flexible ways of educating all children within the public school system. The general assembly seeks to create an atmosphere in Colorado's public school system where research and development in developing different learning opportunities is actively pursued. As such, the provisions of this part 1 should be interpreted liberally to support the findings and goals of this section and to advance a renewed commitment by the state of Colorado to the mission, goals, and diversity of public education.

22-30.5-103 – Definitions.

(1) For purposes of this part 1:

(a) "At-risk pupil" means a pupil who, because of physical, emotional, socioeconomic, or cultural factors, is less likely to succeed in a conventional educational environment.

(b) "Local board of education" means the school district board of education.

(c) "State board" means the state board of education.

22-30.5-104 – Charter school - requirements - authority.

(1) A charter school shall be a public, nonsectarian, nonreligious, non-home-based school which operates within a public school district.

(2) A charter school shall be a public school within the school district that grants its charter and shall be accountable to the school district's local board of education for purposes of ensuring compliance with applicable laws and charter provisions and the requirement of section 15 of article IX of the state constitution. A charter school cannot apply to, or be granted a charter by, a school district unless a majority of the charter school's pupils will reside in the chartering school district or in school districts contiguous thereto.

(3) A charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, or need for special education services. A charter school shall be subject to any court-ordered desegregation plan in effect for the school district. Enrollment must be open to any child who resides within the school district; except that no charter school shall be required to make alterations in the structure of the facility used by the charter school or to make alterations to the arrangement or function of rooms within the facility, except as may be required by state or federal law. Enrollment decisions shall be made in a nondiscriminatory manner specified by the charter school applicant in the charter school application.

(4) A charter school shall be administered and governed by a governing body in a manner agreed to by the charter school applicant and the local board of education. A charter school may organize as a nonprofit corporation pursuant to the "Colorado Nonprofit Corporation Act", articles 20 to 29 of title 7, C.R.S., which shall not affect its status as a public school for any purposes under Colorado law.

(4.5)(a) In order to clarify the status of charter schools for purposes of tax-exempt financing, a charter school, as a public school, is a governmental entity. Direct leases and financial obligations of a charter school shall not constitute debt or financial obligations of the school district unless the school district specifically assumes such obligations.

(b) Notwithstanding the provisions of section 22-30.5-110 (1) to the contrary, a charter school and the local board of education may agree to extend the length of the charter beyond five years for the purpose of enhancing the terms of any lease or financial obligation.

(5) Except as otherwise provided in sections 22-20-109, 22-32-115, and 22-54-109, a charter school shall not charge tuition.

(6) Pursuant to contract, a charter school may operate free from specified school district policies and state regulations. Pursuant to contract, a local board of education may waive locally imposed school district requirements, without seeking approval of the state board. The state board may waive state statutory requirements or rules promulgated by the state board. Upon request of the charter applicant, the state board and the local board of education shall provide summaries of such regulations and policies to use in preparing a charter school application. The department of education shall prepare the summary of state regulations within existing appropriations. Any waiver of state or local school district regulations made pursuant to this subsection (6) shall be for the term of the charter for which the waiver is made; except that a waiver of state statutes or regulations by the state board shall be subject to review every two years and may be revoked if the waiver is deemed no longer necessary by the state board.

(7)(a) A charter school shall be responsible for its own operation including, but not limited to, preparation of a budget, contracting for services, and personnel matters.

(b) A charter school may negotiate and contract with a school district, the governing body of a state college or university, or any third party for the use of a school building and grounds, the operation and maintenance thereof, and the provision of any service, activity, or undertaking that the charter school is required to perform in order to carry out the educational program described in its charter. Any services for which a charter school contracts with a school district shall be provided by the district at cost. The charter school shall have standing to sue and be sued in its own name for the enforcement of any contract created pursuant to this paragraph (b).

(c) In no event shall a charter school be required to pay rent for space which is deemed available, as negotiated by contract, in school district facilities. All other costs for the operation and maintenance of the facilities used by the charter school shall be subject to negotiation between the charter school and the school district.

(8) A charter school shall be authorized to offer any educational program that may be offered by a school district unless expressly prohibited by its charter or by state law.

22-30.5-105 – Charter schools - contract contents - regulations.

(1) An approved charter application shall serve as the basis for a contract between the charter school and the local board of education.

(2) The contract between the charter school and the local board of education shall reflect all agreements regarding the release of the charter school from school district policies.

(3) The contract between the charter school and the local board of education shall reflect all requests for release of the charter school from state statutes and regulations. Within ten days after the contract is approved by the local board of education, any request for release from state statutes and regulations shall be delivered by the local board of education to the state board. Within forty-five days after a request for release is received by the state board, the state board shall either grant or deny the request. If the state board grants the request, it may orally notify the local board of education and the charter school of its decision. If the state board denies the request, it shall notify the local board of education and the charter school in writing that the request is denied and specify the reasons for denial. If the local board of education and the charter school do not receive notice of the state board's decision within forty-five days after submittal of the request for release, the request shall be deemed granted. If the state board denies a request for release that includes multiple state statutes or regulations, the denial shall specify the state statutes and regulations for which the release is denied, and the denial shall apply only to those state statutes and regulations so specified.

(4) A material revision of the terms of the contract may be made only with the approval of the local board of education and the governing body of the charter school.

22-30.5-106 – Charter application - contents.

(1) The charter school application shall be a proposed agreement and shall include:

(a) The mission statement of the charter school, which must be consistent with the principles of the general assembly's declared purposes as set forth in section 22-30.5-102 (2) and (3);

(b) The goals, objectives, and pupil performance standards to be achieved by the charter school;

(c) Evidence that an adequate number of parents, teachers, pupils, or any combination thereof support the formation of a charter school;

(d) Repealed.

(e) A description of the charter school's educational program, pupil performance standards, and curriculum, which must meet or exceed any content standards adopted by the school district in which the charter school has applied for a charter and must be designed to enable each pupil to achieve such standards;

(f) A description of the charter school's plan for evaluating pupil performance, the types of assessments that will be used to measure pupil progress towards achievement of the school's pupil performance standards, the timeline for achievement of such standards, and the procedures for taking corrective action in the event that pupil performance at the charter school falls below such standards;

(g) Evidence that the plan for the charter school is economically sound for both the charter school and the school district, a proposed budget for the term of the charter, a description of the manner in which an annual audit of the financial and administrative operations of the charter school, including any services provided by the school district, is to be conducted, and a plan for the displacement of pupils, teachers, and other employees who will not attend or be employed in the charter school;

(h) A description of the governance and operation of the charter school, including the nature and extent of parental, professional educator, and community involvement in the governance and operation of the charter school;

(i) An explanation of the relationship that will exist between the proposed charter school and its employees, including evidence that the terms and conditions of employment have been addressed with affected employees and their recognized representative, if any;

(i.5) The employment policies of the proposed charter school;

(j) An agreement between the parties regarding their respective legal liability and applicable insurance coverage;

(k) A description of how the charter school plans to meet the transportation needs of its pupils and, if the charter school plans to provide transportation for pupils, a plan for

addressing the transportation needs of low-income and academically low-achieving pupils;

(l) A description of the charter school's enrollment policy, consistent with the requirements of section 22-30.5-104 (3), and the criteria for enrollment decisions;

(m) A dispute resolution process, as provided in section 22-30.5-107.5.

(2) No person, group, or organization may submit an application to convert a private school or a non-public home-based educational program into a charter school or to create a charter school which is a non-public home-based educational program as defined in section 22-33-104.5.

(3) A charter applicant is not required to provide personal identifying information concerning any parent, teacher, or prospective pupil prior to the time that the charter is approved and either the charter school actually employs the teacher or the pupil actually enrolls in the charter school, whichever is applicable. A charter school applicant shall provide, upon request of the school district, aggregate information concerning the grade levels and schools in which prospective pupils are enrolled.

22-30.5-107 – Charter application - process.

(1) A charter applicant cannot apply to, or be granted a charter by, a school district unless a majority of the charter school's pupils will reside in the chartering school district or in school districts contiguous thereto. The local board of education shall receive and review all applications for charter schools. Applications must be filed with the local board of education by October 1 to be eligible for consideration for the following school year. The local board of education shall not charge any application fees. If such board finds the charter school application is incomplete, the board shall request the necessary information from the charter applicant. The charter school application shall be reviewed by the district accountability committee prior to consideration by the local board of education.

(1.5) For purposes of reviewing a charter school application, a district accountability committee shall include at least:

(a) One person with a demonstrated knowledge of charter schools, regardless of whether that person resides within the school district; and

(b) One parent or legal guardian of a child enrolled in a charter school in the school district; except that, if there are no charter schools in the school district, the local board of education shall appoint a parent or legal guardian of a child enrolled in the school district.

(2) After giving reasonable public notice, the local board of education shall hold community meetings in the affected areas or the entire school district to obtain information to assist the local board of education in its decision to grant a charter school application. The local board of education shall rule by resolution on the application for a charter school in a public hearing, upon reasonable public notice, within seventy-five days after receiving the application filed pursuant to subsection (1) of this section. All negotiations between the charter school and the local board of education on the contract shall be concluded by, and all terms of the contract agreed upon, no later than ninety days after the local board of education rules by resolution on the application for a charter school unless the parties mutually agree to waive this deadline.

(2.5) The charter applicant and the local board of education may jointly waive the deadlines set forth in this section.

(3) If a local board of education denies a charter school application or unilaterally imposes conditions that are unacceptable to the charter applicant, the charter applicant may appeal the decision to the state board pursuant to section 22-30.5-108.

(4) If a local board of education denies a charter school application, it shall state its reasons for the denial. If a local board of education grants a charter, it shall send a copy of the approved charter to the department of education within fifteen days after granting the charter.

22-30.5-107.5 – Dispute resolution - appeal.

(1) The charter school and the school district shall agree on a third-party dispute resolution process to resolve disputes that may arise concerning implementation of the charter contract. If the charter school and the school district do not include a third-party dispute resolution process, the state board shall direct the department of education to provide dispute resolution services at the request of the charter school or the school district. The charter school and the school district shall each be responsible for paying one-half of the reasonable costs incurred by the department of education in providing such dispute resolution services. The state board shall establish the amount of such reasonable costs by rule.

(2) If either the charter school or the school district fails or refuses to participate in a dispute resolution process or fails or refuses to comply with the decision reached as a result of the dispute resolution process, such failure or refusal shall constitute an alleged unilateral imposition of conditions that may be appealed to the state board pursuant to section 22-30.5-108 (3).

22-30.5-108 – Appeal - standard of review - procedures.

(1) Acting pursuant to its supervisory power as provided in section 1 of article IX of the state constitution, the state board, upon receipt of a notice of appeal or upon its own motion, may review decisions of any local board of education concerning charter schools in accordance with the provisions of this section.

(2) A charter applicant or any other person who wishes to appeal a decision of a local board of education concerning a charter school shall provide the state board and the local board of education with a notice of appeal or of facilitation within thirty days after the local board's decision. If the appeal is of a denial, nonrenewal, or revocation of a charter, the person bringing the appeal shall limit the grounds of the appeal to the grounds for denial specified by the local board of education. The notice shall include a brief statement of the reasons the charter school applicant contends the local board of education's denial was in error.

(3) If the notice of appeal, or the motion to review by the state board, relates to a local board's decision to deny, refuse to renew, or revoke a charter or to a local board's unilateral imposition of conditions that are unacceptable to the charter school or the charter applicant, the appeal and review process shall be as follows:

(a) Within sixty days after receipt of the notice of appeal or the making of a motion to review by the state board and after reasonable public notice, the state board, at a public hearing which may be held in the school district in which the proposed charter school has applied for a charter, shall review the decision of the local board of education and make its findings. If the state board finds that the local board's decision was contrary to the best interests of the pupils, school district, or community, the state board shall remand such decision to the local board of education with written instructions for reconsideration thereof. Said instructions shall include specific recommendations

concerning the matters requiring reconsideration.

(b) Within thirty days following the remand of a decision to the local board of education and after reasonable public notice, the local board of education, at a public hearing, shall reconsider its decision and make a final decision.

(c) If the local board of education's final decision is still to deny, refuse to renew, or revoke a charter or to unilaterally impose conditions unacceptable to the charter school or the charter applicant, a second notice of appeal may be filed with the state board within thirty days following such final decision.

(d) Within thirty days following receipt of the second notice of appeal or the making of a motion for a second review by the state board and after reasonable public notice, the state board, at a public hearing, shall determine whether the final decision of the local board of education was contrary to the best interests of the pupils, school district, or community. If such a finding is made, the state board shall remand such final decision to the local board with instructions to approve the charter application. The decision of the state board shall be final and not subject to appeal.

(3.5) In lieu of a first appeal to the state board pursuant to paragraph (a) of subsection (3) of this section, the parties may agree to facilitation. Within thirty days after denial, nonrenewal, or revocation of a charter by the local board of education, the parties may file a notice of facilitation with the state board. The parties may continue in facilitation as long as both parties agree to its continued use. If one party subsequently rejects facilitation, and such rejection is not reconsidered within seven days, the local board of education shall reconsider its denial, nonrenewal, or revocation of a charter and make a final decision as provided in paragraph (b) of subsection (3) of this section. The charter applicant may file a notice of appeal with the state board as provided in paragraph (c) of subsection (3) of this section within thirty days after a local board of education's final decision to deny, not renew, or revoke a charter.

(4) If the notice of appeal, or the motion to review by the state board, relates to a local board's decision to grant a charter, the appeal and review process shall be as follows:

(a)(I) Within sixty days after receipt of the notice of appeal or the making of a motion to review by the state board and after reasonable public notice, the state board, at a public hearing which may be held in the district in which the proposed charter school has applied for a charter, shall review the decision of the local board of education and determine whether such decision was arbitrary and capricious or whether the establishment or operation of the proposed charter school would:

(A) Violate any federal or state laws concerning civil rights;

(B) Violate any court order;

(C) Threaten the health and safety of pupils in the school district;

(D) Violate the provisions of section 22-30.5-109 (2), prescribing the permissible number of charter schools; or

(E) Be inconsistent with the equitable distribution of charter schools among school districts.

(II) If such a determination is made, the state board shall remand such decision to the local board with instructions to deny the charter application. The decision of the state board shall be final and not subject to appeal.

(5) Nothing in this section shall be construed to alter the requirement that a charter school be a part of the school district that grants its charter and accountable to the local board of education pursuant to section 22-30.5-104 (2).

22-30.5-109 – Charter schools - restrictions - establishment - number.

(1) A local board of education may reasonably limit the number of charter schools in the school district.

(2)(a) No more than sixty charters shall be granted prior to July 1, 1997, and at least sixteen of said sixty charters shall be reserved for charter school applications which are designed to increase the educational opportunities of at-risk pupils, as defined in section 22-30.5-103.

(b) Local boards of education which grant charter school applications shall report such action to the state board and shall specify whether or not such school is designed to increase the educational opportunities of at-risk pupils. The state board shall promptly notify the board of education of each school district when the limits specified in paragraph (a) of this subsection (2) have been reached.

(3) It is the intent of the general assembly that priority of consideration be given to charter school applications designed to increase the educational opportunities of at-risk pupils, as defined in section 22-30.5-103.

(4) If otherwise qualified, nothing in this part 1 shall be construed to prohibit any institution certified as an educational clinic pursuant to article 27 of this title, on or before April 1, 1993, from applying to become a charter school pursuant to this part 1.

(5) Nothing in this part 1 shall be construed to prevent a school in a school district which is comprised of only one school from applying to become a charter school pursuant to this part 1.

(6) A school district shall not discriminate against a charter school in publicizing the district's educational options through advertising, direct mail, availability of mailing lists, or other informational activities, provided that the charter school pays for its share of such publicity at cost.

22-30.5-110 – Charter schools - term - renewal of charter - grounds for nonrenewal or revocation.

(1) A new charter may be approved for a period of at least three years but not more than five academic years. A charter may be renewed for a period not to exceed five years.

(1.5) No later than December 1 of the year prior to the year in which the charter expires, the governing body of a charter school shall submit a renewal application to the local board of education. The local board of education shall rule by resolution on the renewal application no later than February 1 of the year in which the charter expires, or a mutually agreed upon date.

(2) A charter school renewal application submitted to the local board of education shall contain:

(a) A report on the progress of the charter school in achieving the goals, objectives, pupil performance standards, content standards, and other terms of the initial approved charter application; and

(b) A financial statement that discloses the costs of administration, instruction, and other spending categories for the charter school that is understandable to the general public and that will allow comparison of such costs to other schools or other comparable organizations, in a format required by the state board of education.

(3) A charter may be revoked or not renewed by the local board of education if such board determines that the charter school did any of the following:

(a) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter application;

(b) Failed to meet or make reasonable progress toward achievement of the content standards or pupil performance standards identified in the charter application;

(c) Failed to meet generally accepted standards of fiscal management; or

(d) Violated any provision of law from which the charter school was not specifically exempted.

(4) In addition, a charter may be not renewed upon a determination by the local board of education that it is not in the interest of the pupils residing within the school district to continue the operation of the charter school.

(4.5) If a local board of education revokes or does not renew a charter, the board shall state its reasons for the revocation or nonrenewal.

(5) A decision to revoke or not to renew a charter may be appealed or facilitation may be sought pursuant to the provisions of section 22-30.5-108.

22-30.5-111 – Charter schools - employee options.

(1) During the first year that a teacher employed by a school district is employed by a charter school, such teacher shall be considered to be on a one-year leave of absence from the school district. Such leave of absence shall commence on the first day of services for the charter school. Upon the request of the teacher, the one-year leave of absence shall be renewed for up to two additional one-year periods upon the mutual agreement of the teacher and the school district. At the end of three years, the relationship between the teacher and the school district shall be determined by the school district and such district shall provide notice to the teacher of the relationship.

(2) The local board of education shall determine by policy or by negotiated agreement, if one exists, the employment status of school district employees employed by the charter school who seek to return to employment with public schools in the school district.

(3) Employees of a charter school shall be members of the public employees' retirement association or the Denver public schools retirement system, whichever is applicable. The charter school and the teacher shall contribute the appropriate respective amounts as required by the funds of such association or system.

22-30.5-112 – Charter schools - financing - guidelines.

(1) For purposes of the "Public School Finance Act of 1994", article 54 of this title, pupils enrolled in a charter school shall be included in the pupil enrollment of the school district that granted its charter. The school district that granted its charter shall report to the department of education the number of pupils included in the school district's pupil enrollment that are actually enrolled in each charter school.

(2)(a)(I) As part of the charter school contract, the charter school and the school district shall agree on funding and any services to be provided by the school district to the charter school.

(II) For the 1999-2000 budget year, the charter school and the school district shall begin discussions on the contract using eighty percent of the district per pupil operating revenues.

(III) For budget year 2000-2001 and budget years thereafter, except as otherwise provided in paragraph (a.3) of this subsection (2), each charter school and the authorizing school district shall negotiate funding under the contract at a minimum of ninety-five percent of the district per pupil revenues for each pupil enrolled in the charter school. The school district may choose to retain up to five percent of the district per pupil revenues for each pupil enrolled in the charter school as payment for the charter school's portion of central administrative overhead costs incurred by the school district.

(a.3) If the authorizing school district enrolls five hundred or fewer students, the charter school shall receive funding in the amount of the greater of one hundred percent of the district per pupil revenues for each pupil enrolled in the charter school minus the actual amount of the charter school's per pupil share of the central administrative overhead costs incurred by the school district, based on audited figures, or eighty-five percent of the district per pupil revenues for each pupil enrolled in the charter school.

(a.5) As used in this subsection (2):

(I) "Central administrative overhead costs" means indirect costs incurred in providing items or services listed under the heading of support services - general administration in the school district chart of accounts as specified by rule of the state board.

(II) "District per pupil revenues" means the district's total program as defined in section 22-54-103 (6) for any budget year divided by the district's funded pupil count as defined in section 22-54-103 (7) for said budget year.

(III) "Per pupil operating revenues" shall have the same meaning as provided in section 22-54-103 (9).

(a.7) For the 2000-2001 budget year and budget years thereafter, each charter school shall annually allocate the minimum per pupil dollar amount specified in section 22-54-105 (2) (b), multiplied by the number of students enrolled in the charter school, to a fund created by the charter school for capital reserve purposes, as set forth in section 22-45-103 (1) (c) and (1) (e), or solely for the management of risk-related activities, as identified in section 24-10-115, C.R.S., and article 13 of title 29, C.R.S., or among such allowable funds. Said moneys shall be used for the purposes set forth in section 22-45-103 (1) (c) and (1) (e) and may not be expended by the charter school for any other purpose.

(a.8) For the 2000-2001 budget year and budget years thereafter, the school district shall provide federally required educational services to students enrolled in charter schools on the same basis as such services are provided to students enrolled in other public schools of the school district. Each charter school shall pay an amount equal to the per pupil cost incurred by the school district in providing federally required educational services, multiplied by the number of students enrolled in the charter school. At either party's request, however, the charter school and the school district may negotiate and include in the charter contract alternate arrangements for the provision of and payment for federally required educational services.

(b) The charter school, at its discretion, may contract with the school district for the direct purchase of district services in addition to those included in central administrative overhead costs, including but not limited to food services, custodial services, maintenance, curriculum, media services, and libraries. The amount to be paid by a charter school in purchasing any district service pursuant to this paragraph (b) shall be determined by dividing the cost of providing the service for the entire school district, as specified in the school district's budget, by the number of students enrolled in the school district and multiplying said amount by the number of students enrolled in the charter school.

(b.5) The charter school may agree with the school district to pay any actual costs incurred by the school district in providing unique support services used only by the charter school.

(c)(I) For the 1999-2000 budget year, in no event shall the amount of funding negotiated pursuant to this subsection (2) be less than eighty percent of the district per pupil operating revenues multiplied by the number of pupils enrolled in the charter school.

(II) For budget year 2000-2001 and budget years thereafter, the amount of funding received by a charter school pursuant to this subsection (2) shall not be less than ninety-five percent of the district per pupil revenues multiplied by the number of pupils enrolled in the charter school or as otherwise provided in paragraph (a.3) of this subsection (2) for any charter school authorized by a school district that enrolls five hundred or fewer students.

(d) It is the intent of the general assembly that funding and service agreements pursuant to this subsection (2) shall be neither a financial incentive nor a financial disincentive to the establishment of a charter school.

(e) Fees collected from students enrolled at a charter school shall be retained by such charter school.

(3)(a)(I) For the 1999-2000 budget year, notwithstanding subsection (2) of this section, the proportionate share of state and federal resources generated by students with disabilities or staff serving them shall be directed to charter schools enrolling such students by their school districts or administrative units. The proportionate share of moneys generated under other federal or state categorical aid programs shall be directed to charter schools serving students eligible for such aid.

(II) For budget year 2000-2001 and budget years thereafter, if the charter school and the school district have negotiated to allow the charter school to provide federally required educational services pursuant to paragraph (a.8) of subsection (2) of this section, the proportionate share of state and federal resources generated by students receiving such federally required educational services or staff serving them shall be directed by the school district or administrative unit to the charter school enrolling such students.

(III) For budget year 2000-2001 and budget years thereafter, the proportionate share of moneys generated under federal or state categorical aid programs, other than federally required educational services, shall be directed to charter schools serving students eligible for such aid.
(b) If a student with a disability attends a charter school, the school district of residence shall be responsible for paying any tuition charge for the excess costs incurred in educating the child in accordance with the provisions of section 22-20-109 (5).

(4) The governing body of a charter school is authorized to accept gifts, donations, or grants of any kind made to the charter school and to expend or use said gifts, donations, or grants in accordance with the conditions prescribed by the donor; however, no gift, donation, or grant shall be accepted by the governing body if subject to any condition contrary to law or contrary to the terms of the contract between the charter school and the local board of education.

(4.5) Any moneys received by a charter school from any source and remaining in the charter school's accounts at the end of any budget year shall remain in the charter school's accounts for use by the charter school during subsequent budget years and shall not revert to the school district or to the state.

(5) The department of education will prepare an annual report and evaluation for the governor and the house and senate committees on education on the success or failure of charter schools, their relationship to other school reform efforts, and suggested changes in state law necessary to strengthen or change the charter school program.

(6) The department of education will provide technical assistance to persons and groups preparing or revising charter applications.

22-30.5-113 – Charter schools - evaluation - report.

(1) The state board shall compile evaluations of charter schools received from local boards of education. The state board shall review information regarding the regulations and policies from which charter schools were released pursuant to section 22-30.5-105 to determine if the releases assisted or impeded the charter schools in meeting their stated goals and objectives.

(2) Repealed.

(3) In preparing the report required by this section, the state board shall compare the performance of charter school pupils with the performance of ethnically and economically comparable groups of pupils in other public schools who are enrolled in academically comparable courses.

22-30.5-114 – Repeal of part. (Repealed)

22-30.5-115 – Construction of article - severability.

If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this article that can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

Appendix 2
Charter Schools Approved and Operating in the 1999-2000 School Year

The following charter schools were in operation as of the beginning of the 1999-2000 school year:

1 Academy Charter School
809 North Park Street
Castle Rock CO 80104
DOUGLAS COUNTY RE1
Opened 1993 **Administrator** Kendra Nelson
Phone 303-660-4881
Fax 303-660-6385
Email hartm@acs.douglas.k12.co.us

The Academy Charter School is a K-8 school with 400 students. The school emphasizes high academic standards based on the Core Knowledge Curriculum. The school also offers a home school support program to 36 students in grades 3-8. The school's governing board members are elected by the parents who send their children to the school.

2 Academy of Charter Schools
601 E 64th Avenue
Denver CO 80229
NORTHGLENN-THORNTON 12
Opened 1994 **Administrator** Kinny J. Griffith
Phone 303-289-8088
Fax 303-289-8087
Email Kin_Griffith@ceo.cudenver.edu

This school offers classes in kindergarten through the 12th grade. Approximately 844 students are enrolled. The Core Knowledge Curriculum is used for kindergarten through sixth grade.

3 Alta Vista Charter School
PO Box 449
Lamar CO 81052
LAMAR RE2
Opened 1998 **Administrator** Al Neuhold
Phone 719-336-2154
Fax 719-336-7001
Email Alta.Vista@lamar.k12.co.us

The mission of Alta Vista is to strengthen the academic performance of public school pupils in grades K-7 by providing the attributes, traditions, and virtues of a rural country school. Alta Vista seeks to design a basic curriculum with enrichment which will challenge all students to perform at a level which meets or exceeds state board and school district standards. The school achieves these goals through emphasis on a structured educational environment, strong encouragement of parental involvement, and commitment to treating each child as a unique individual. Enrollment is currently at 81.

4 Aspen Community/Carbondale Community Schools
PO Box 336
Woody Creek CO 81656
ROARING FORK RE1
Opened 1995 **Administrator** Dave Throgmorton
Phone 970-923-4646
Fax 970-923-620
Email davet@discovercompass.org

ACS serves 114 students (K-8) in Woody Creek. CCS serves 100 students (K-7) in Carbondale, with plans to add an 8th grade in 2000. Both schools are under a joint charter agreement between the Aspen School District and the Roaring Fork School District. Roaring Fork is the fiscal agent for the school. Schooling is personalized and classes are small with all faculty teaming and focusing on the whole student. Student responsibility, democracy and caring are coupled with an academic environment where the student constructs knowledge and meaning.

5 Battle Rock Charter School
12247 C.R.G.
Cortez CO 81321
MONTEZUMA-CORTEZ RE1
Opened 1994 **Administrator** Stephen Hanson
Phone 970-565-3237
Fax 970-564-1140
Email bttlrck@Frontier.net

A very small (26 student) K-6 elementary school in an isolated setting in Montezuma County. The school was chartered in order to sustain its existence and continue its development as an innovative small school.

6 Boulder Prepatory High School
1777 6th Street
Boulder CO 80302
BOULDER VALLEY RE2
Opened 1997 **Administrator** Greg Brown
Phone 303-545-6186
Fax 303-441-4716
Email gbrown7674@aol.com

The school provides year round education and is specifically designed for at-risk youth who are disconnected from the traditional school system because of juvenile delinquency, drugs and alcohol, alienation, or other factors. The school's program provides instruction through a college prep block system and allows a student to complete high school requirements within two to three years. Enrollment is 50 students.

7 **Brighton Charter School**
1931E Bridge St.
Brighton CO 80601
BRIGHTON 27J
Opened 1998 **Administrator** Jim Greule
Phone 303-655-0773
Fax 303-659-2901
Email tgogerty@indra.com
The school serves 352 students in grades 6-11 and provides a very string basic education with enhanced learning opportunities for college prep and career prep. The college prep portion of the program will be delivered in cooperation with Front Range Community College, which will have offices in the same building.

8 **Cherry Creek Academy**
6260 S Dayton
Englewood CO 80111
CHERRY CREEK 5
Opened 1995 **Administrator**
Phone 303-779-8988
Fax 303-779-8817
Email
The school serves approximately 444 students in grades kindergarten through 8. The school is located in the Denver Tech Center. The curriculum is dedicated to solid mastery of fundamentals in language, math, science and humanities. It emphasizes the substance of mankind's knowledge found in the Core Knowledge curriculum.

9 **Cheyenne Mountain Charter Academy**
1832 South Wasatch
Colorado Springs CO 80906
El Paso District 12
Opened 1995 **Administrator** Colin Mullaney
Phone 719-471-1999
Fax 719-471-4949
Email cmca@iex.net
This is a kindergarten through 8th grade school based on the Core Knowledge Series, with particular emphasis on discipline, character development, parental involvement, and low student-teacher ratios. Student enrollment is approximately 305.

10 **CIVA Charter School**
1205 Potter Drive
Colorado Springs CO 80909
COLORADO SPRINGS 11
Opened 1997 **Administrator** Linda Page
Phone 719-477-6040
Fax 719-477-6043
Email ljpage12@yahoo.com
Character education is central to the philosophy and goals of the school. The school's program will be individualized to the special talents, attitudes, aptitudes, and family background of each student. Enrollment is approximately 100.

11 **Classical Academy, The**
8650 Scarborough Dr.
Colorado Springs CO 80920
ACADEMY 20
Opened 1997 **Administrator** Chuck Holt
Phone 719-282-1181
Fax 719-282-3226
Email tca@d20.co.edu
The school's elementary program is based upon the Core Knowledge Sequence serving grades K-8. Current student enrollment is 617 students. The mission of the school is to "assist parents in their mission to develop exemplary young citizens with superior academic preparatión, equipped with analytical thinking skills, a passion for learning, and virtuous character, all built upon a solid foundation of knowledge. Spanish, music, and art are also offered.

12 **Collegiate Academy**
8420 So. Sangre De Cristo Road
Littleton CO 80127
JEFFERSON COUNTY R1
Opened 1994 **Administrator** Joanie LeTellier
Phone 303-972-7433
Fax 303-932-0695
Email
The school serves approximately 531 students in grades K-12. The K-8 program is Core Knowledge. The high school program includes a liberal arts curriculum with a science-math-technology focus and multiple learning options.

13 **Colorado High School, The**
1020 28th Street, Suite 207
Greeley CO 80631
GREELEY 6
Opened 1998 **Administrator** Don Heiman
Phone 970-353-6132
Fax 970-392-2687
Email DHE6536351@aol.com
The school serves approximately 105 high school students. Students, parents, and staff develop a self-directed learning plan for each student based upon the school district's graduation requirements.

14 **Colorado Visionary Charter Academy**
15653 Brookstone Drive
Parker CO 80134
DOUGLAS COUNTY RE1
Opened 1997 **Administrator** Nila Tritt
Phone 303-805-6166
Fax 303-805-6162
Email
The school serves students in grades K-8. The focus of the school is math, science, and technology and on the Paideia teaching philosophy. Enrollment is approximately 205.

15 Community Involved Charter School
7700 W Woodard Drive
Lakewood CO 80227
JEFFERSON COUNTY R1
Opened 1994 **Administrator** Pauline McBeth
Phone 303-985-7092
Fax 303-985-7721
Email Pauline_Mcbeth@together.cudenver.edu
The school is K-12 and enrolls approximately 240 students. The school offers open education, active and experiential learning, student self-direction, personalized learning, and basic academics.

16 Community of Learners
201 E 12st St.
Durango CO 81301
DURANGO 9R
Opened 1994 **Administrator** Scott Kuster
Phone 970-259-0328
Fax 970-247-9581
Email skuster@durango.k12.co.us
The Community of Learners serves approximately 130 students grades K-12. The school takes a school centered approach to education through the use of individualized learning plans, integrates service learning into the core curriculum, and emphasizes connection to the surrounding natural and human communities.

17 Community Prep School
332 E Willanette Avenue
Colorado Springs CO 80903
COLORADO SPRINGS 11
Opened 1995 **Administrator**
Phone 719-578-6916
Fax 719-636-3407
Email jahhjoey@yahoo.com
This unique charter design, with on-site management, was developed and contracted between the Colorado Springs City Council and Colorado Springs School District No. 11. The school serves approximately 145 high-risk students in grades 9-12. The school has linkages with the Private Industry Council, Job Training Partnership, and 17 school districts in El Paso County. Each student works with a case manager to address their social needs as defined in the student's individual service plan. The school uses a modified Paideia approach and features the use of technology based around the Comprehensive Competencies Program. The curriculum requires 80% minimum mastery and stresses post secondary options.

18 Compass Montessori Charter School
10399 W 44th Avenue
Wheat Ridge CO 80033
JEFFERSON COUNTY R1
Opened 1998 **Administrator** Richard Fulton
Phone 303-420-8288
Fax 303-420-0139
Email rsfulton@jeffco.k12.co.us
This charter school is designed after the South Jeffco Montessori Charter School which stresses multi-sensory learning and individualized learning in multi-aged classrooms. The curriculum is authentic Montessori. Teachers are Montessori certified. The school will serve approximately 240 students ages 3 through 12

19 Connect School, The
107 E 7th
Pueblo CO 81002
PUEBLO RURAL 70
Opened 1993 **Administrator** Judy Mikulas
Phone 719-542-0224
Fax 719-542-0225
Email
The Connect School is a grade 6-8 middle school without-walls serving 138 students. The school utilizes multiple community resources for learning, such as museums, parks, libraries, computer labs, and mountain experiences.

20 Core Knowledge Charter School
10423 Parker Road
Parker CO 80134
DOUGLAS COUNTY RE1
Opened 1995 **Administrator** Monica Kaler
Phone 303-840-7070
Fax 303-840-1933
Email
The school serves 320 students in grades kindergarten through 8th grade. The school will grow by 20 students each year until each grade has two sections. The Core Knowledge Curriculum is the basis of the school's program.

21 Crestone Charter School
General Delivery
Crestone CO 81131
MOFFAT 2
Opened 1996 **Administrator** Rod Hemsall
Phone 719-256-4907
Fax 719-256-4390
Email ccs@fone.net
This school serves approximately 59 students in grades K-12 in the mountain communities of Crestone-Baca. CCS emphasizes academic excellence and integrated and experiential education within small multi-age classrooms. Tutoring, mentoring, travel, independent study, and individual learning plans are included in the program.

22 Crown Pointe Academy

7281 Irving Street
Westminster CO 80030
WESTMINSTER 50

Opened 1997 **Administrator** B.J. Buchmann
Phone 303-428-1882
Fax 303-428-1938
Email crownpointe.academy@cwix.com

The school offers a challenging, content-rich curriculum based on the Core Knowledge Sequence. Spanish is taught as a second language beginning in Kindergarten. A combination of delivery methods is used including drill and practice, use of hands on resources, projects, experiments, and the Socratic method of inquiry. The school serves 203 grades in grades K-6. A grade level will be added each year until the school is K-8.

23 DCS Montessori School

8218 W. Carder Ct.
Littleton CO 80125
DOUGLAS COUNTY RE1

Opened 1997 **Administrator** Susan Wilkerson
Phone 303-471-1800
Fax 303-471-2259
Email susan.wilkerson@ceo.cudenver.edu

The school's mission is to provide "authentic, accredited Montessori education to the children of Douglas County". The school currently serves approximately 280 students ranging in age from 3 to 12 years of age. Plans are underway to add a campus in the central part of Douglas County near Castle Rock in the near future.

24 Eagle County Charter Academy

PO Box 169
Wolcott CO 81655
EAGLE COUNTY RE50

Opened 1994 **Administrator** Patti Anderson
Phone 970-926-0656
Fax 970-926-0786
Email pattia@ecca.org

The school serves approximately 128 students in grades 5-8. The program used is a trimester, block scheduling system with small graded classes (16:1), and personalized education plans which emphasize academic standards while fostering self-confidence, independence, and critical thinking.

25 Elbert County Charter School

796 E Kiowa Avenue
Elizabeth CO 80107
ELIZABETH C1

Opened 1997 **Administrator** Dean Kern
Phone 303-646-2636
Fax 303-660-5900
Email elbertcharter@juno.com

The school's academic program is based on the Core Knowledge Sequence. Uniforms are required and there will be no more than 22 children per class. Grades K-8 are served and a supplemental, part-time program is available to homeschool families in the area. Enrollment is approximately 218.

26 Excel Academy

9215 Ralston Road
Arvada CO 80002
JEFFERSON COUNTY R1

Opened 1995 **Administrator** Nancy McGinnis
Phone 303-467-2295
Fax 303-467-2291
Email nmginni@jeffco.k12.co.us

The EXCEL Academy serves approximately 126 students in kindergarten through grade 6. The school offers an integrated and challenging educational environment preparing students to be independent, critical thinkers in the 21st century. The school stresses respect for individual learning styles and needs. Each student has an Individual Guided Education Plan (IGEP).

27 EXCEL School, The

215 E 12th Street
Durango CO 81301
DURANGO 9R

Opened 1994 **Administrator** Bill Brandon
Phone 970-259-0203
Fax 970-247-9581
Email excel@frontier.net

The school currently enrolls approximately 109 students in grades 6-12. Working with Fort Lewis College, the school emphasizes high standards, individual success in academics, and learning contracts. The school also plans to serve as a professional development center for the region.

28 Frontier Academy

2560 W 29th Street
Greeley CO 80631
GREELEY 6

Opened 1997 **Administrator** Michael McBrien
Phone 970-330-1780
Fax 970-330-4334
Email mmcbrien@pyramid.cudenver.edu

The school presently has an enrollment of 450 students. The school currently serves grades K-7. The school's curriculum is based in the Core Knowledge Sequence.

29 GLOBE Charter School
117 South Wahsatch
Colorado Springs CO 80903
COLORADO SPRINGS 11
Opened 1995 **Administrator** Alex Sena
Phone 719-630-0577
Fax 719-630-0395
Email globe@rmi.net
GLOBE stands for Global and Local Objectives for Better Education. This K-12 school enrolls 145 students. The curriculum focuses on world culture, earth sciences and global issues. Foreign languages, service learning, and community and university involvement are included in the program.

30 Guffey Community Charter School
1459 Main Street
Guffey CO 80820
PARK COUNTY RE2
Opened 1999 **Administrator** Ginny Jaramillo
Phone 719-689-2093
Fax 719-689-3707
Email
This is a very small and isolated school in Park County that enrolls 26 students.

31 Horizons K-8 Alternative School
4545 Sioux Drive
Boulder CO 80303
BOULDER VALLEY RE2
Opened 1997 **Administrator** Ann Kane
Phone 303-447-5580
Fax
Email kanea@bvsd.k12.co.us
Horizons guides students to become self-directed learners and community contributors in a respectful, noncoercive, mutually caring learning environment. The school, a member of William Glasser's Quality School Network, maintains high academic and behavioral expectations for 296 students in kindergarten through 8th grade and offers a rich, integrated curriculum.

32A Jefferson Academy Charter School
9955 Yarrow Street
Broomfield CO 80021
JEFFERSON COUNTY R1
Opened 1994 **Administrator** Rod Oosterhouse
Phone 303-438-1011
Fax 303-438-1046
Email rodohouse@juno.com
Jefferson Academy serves approximately 310 students in grades K-6. The K-6 program emphasizes fundamental academic education using the Core Knowledge curriculum. The three Jefferson Academy schools are one unified school that consists of three separate charters. Web-site: jeffco.k12.co.us\charter\jeffersonacademy

32B Jefferson Academy Junior High
9955 Yarrow Street
Broomfield CO 80021
JEFFERSON COUNTY R1
Opened 1996 **Administrator** Leland Morrison
Phone 303-469-4382
Fax 303-438-1046
Email DPMund@aol.com
Jefferson Academy Junior High serves approximately 120 students in grades 6-8. The 6-8 program emphasizes fundamental academic education using the Core Knowledge curriculum. The three Jefferson Academy schools are one unified school that consists of three separate charters. Web-site: jeffco.k12.co.us\charter\jeffersonacademy

32C Jefferson Academy Senior High
9955 Yarrow Street
Broomfield CO 80021
JEFFERSON COUNTY R1
Opened 1999 **Administrator** Leland Morrison
Phone 303-469-4382
Fax 303-438-1046
Email DPMund@aol.com
Jefferson Academy High School serves approximately 90 students in grades 9-10. The high school program employs a coordinated humanities curriculum. The school will add an 11th grade and a 12th grade in the next two years. The three Jefferson Academy schools are one unified school that consists of three separate charters. Web-site: jeffco.k12.co.us\charter\jeffersonacademy

33 Lake George Charter School
37888 US Hwy 24
Lake George CO 80827
PARK COUNTY RE2
Opened 1996 **Administrator** Robert Freehill
Phone 719-748-3911
Fax 719-748-8151
Email lakegeorge2@pcisys.net
Lake George Elementary School is a very isolated school in Park County. The school enrolls 108 students in grades K-6.

34 Lewis-Palmer Charter Academy
1890 Willow Park Way
Monument CO 80132
LEWIS-PALMER 38
Opened 1996 **Administrator** Judy Rooney
Phone 719-481-1950
Fax 719-481-1948
Email Roney@ix.netcom.com
The school serves approximately 335 students preschool through 8th grade. The school's goal is to improve student learning by creating high, rigorous standards in a friendly, caring, positive learning environment. The school emphasizes the "Five R's", reading, writing, math, respect, and responsibility.

35 Liberty Common School
1725 Sharp Point Drive
Fort Collins CO 80525
POUDRE R1
Opened 1997 **Administrator** Kathryn Knox
Phone 970-482-9800
Fax 970-482-8007
Email paristh@aol.com or knox@verinet.com
The school enrolls approximately 502 students in grades K-9.

36 Lincoln Academy
6980 Pierce Street
Arvada CO 80003
JEFFERSON COUNTY R1
Opened 1997 **Administrator** Lloyd Carlton
Phone 303-467-0574
Fax 303-467-0727
Email lcarlton@jeffco.k12.co.us
The school is serving approximately 245 students in grades K-6. The basis of the instructional program is the Core Knowledge Sequence. The school is modeled after Jefferson Academy Charter School and was developed as a result of the long waiting list at Jefferson Academy.

37 Littleton Charter Academy
1200 West Mineral Avenue
Littleton CO 80120
LITTLETON 6
Opened 1996 **Administrator** Mary Ann Cambell
Phone 303-798-5252
Fax 303-798-0298
Email
The school enrolls approximately 450 students, kindergarten through 8th grade. The school's curriculum is academic, based upon the Core Knowledge Sequence, supported with technology.

38 Littleton Prep Charter School
5151 South Federal Blvd.
Littleton CO 80123
LITTLETON 6
Opened 1998 **Administrator** Nathan Crow
Phone 303-734-1995
Fax 303-734-3620
Email edwinat@ai.com
The school serves 442 students in grades K-7. The school's basic program in reading, writing and math is based upon Engelmann's Direct Instruction Model. The Core Knowledge Sequence is also integrated into the curriculum.

39 Magnet School of the Deaf
8605 W 23rd Avenue
Lakewood CO 80215
JEFFERSON COUNTY R1
Opened 1997 **Administrator** Cliff Moers, Board Pres
Phone 303-202-6459/
Fax 303-982-7574
Email
The school is bilingual and open to the metropolitan Denver deaf children ages 3 to 11. Classes are taught with American Sign Language as the language of instruction and written English as the language of text. Access to communication, high standards for academic achievement, and literacy are strongly emphasized. The school has 27 students enrolled.

40 Marble Charter School
412 W Main Street
Marble CO 81623
GUNNISON-WATERSHED RE1J
Opened 1995 **Administrator** Steve Finn
Phone 970-963-9550
Fax 970-963-8435
Email mcs@sopris.net
The school serves approximately 17 students in grades kindergarten through grade 8. The school has a mission of helping students attain their highest social and academic potential in a rigorous academic environment within a nurturing learning community. The school is committed to encouraging the child's natural curiosity, self esteem, commitment to community, and recognition of quality. This is the first operational public school in the town of Marble for several decades.

41 Montessori Peaks Academy
9126 W Bowles Ave.
Littleton CO 80127
JEFFERSON COUNTY R1
Opened 1997 **Administrator** David M. Hickey
Phone 303-972-2627
Fax 303-933-4182
Email dhickey@jeffco.k12.co.us
The school serves 296 students between the ages of 3 and 12. Montessori-trained teachers, materials, and curriculum is the foundation of the program. The school's mission is to foster students' innate curiosity and love of learning, to enable them to develop their intellectual, physical, and social potential to the fullest extent possible. Individualized learning and low student- teacher ratios along with strong parental involvement are highlights of the program.

42 Mountain View Core Knowledge School
890 Field Avenue
Canon City CO 81212
CANON CITY RE1
Opened 1996 **Administrator** Shirley Squier, Ph.D.
Phone 719-275-1980
Fax 719-275-1998
Email mtview@rmi.net
The school serves approximately 202 students, K-7. The school's curriculum is based upon the Core Knowledge Sequence.

43 Odyssey School, The
2900 Syracuse Street
Denver CO 80207
DENVER COUNTY 1
Opened 1998 **Administrator** Van Schoales
Phone 303-316-3944
Fax 303-316-4016
Email
This school is an Expeditionary Learning School and serves students in grades 1-6. The school serves 168 students.

44 P.S. 1
1062 Delaware Street
Denver CO 80204
DENVER COUNTY 1
Opened 1995 **Administrator** Stephen Meyers
Phone 303-575-6690
Fax 303-575-6661
Email rbrown@usa.net
This school uses downtown Denver as its campus and involves its students in interdisciplinary projects related to urban issues. The school features individualized learning plans, workshops in math, science, the arts and humanities, community service and opportunities for extended studies. Current enrollment is 239 students in grades 5-12.

45 Paradox Valley School
51206 Six Mile Road
Paradox CO 81429
WEST END RE2
Opened 1999 **Administrator** Renee Owens
Phone 970-859-7236
Fax 970-859-7236
Email
The school enrolls 20 students in grades K-6.

46 Passage Charter School
645 South 5th
Montrose CO 81401
MONTROSE COUNTY RE1J
Opened 1997 **Administrator** Nancy Wilson
Phone 970-252-8066
Fax 970-252-2539
Email tippi@rmi.net or pach@frontier.net
The charter school was developed by the Delta-Montrose Teen Pregnancy Prevention Initiative. The school focuses on those students who are pregnant or parenting and whose educational needs can best be met outside the traditional public schools. The school accepts teens from 14-20 years of age, both male and female. The school serves 22 students.

47 Pinnacle Charter School
550 E Thornton Pkwy, #140
Thornton CO 80229
NORTHGLENN-THORNTON 12
Opened 1997 **Administrator** Ruben Perez
Phone 303-450-3985
Fax 303-450-3987
Email margaret_summers@ceo.cudenver.edu
The school serves approximately 635 students in grades kindergarten through 11th grade. A 12th grade will be added next year. The school's curriculum is based in the Core Knowledge Sequence.

48 Pioneer Charter School
3230 E 38th Avenue
Denver CO 80205
DENVER COUNTY 1
Opened 1997 **Administrator** Mary Sours
Phone 303-329-8412
Fax
Email
The educational program has flexible grouping, integrated learning experiences, critical and creative thinking, character education and an integrated arts curriculum. Two areas of major emphasis will be literacy and technology. Personal learning plans will be developed for each student. The model will reflect the idea of "small schools" by creating three learning communities, each serving approximately 150 students. The school is located in a disadvantaged area of Northeast Denver. Approximately 315 students are enrolled in Early Childhood Education through 5th grade

49 Platte River Academy
2680 E County Line Road, Ste K
Littleton CO 80126
DOUGLAS COUNTY RE1
Opened 1997 **Administrator** Erlene Madsen
Phone 303-221-1070
Fax 303-221-1069
Email memadsen@xpert.net
The school is a Core Knowledge school located in Highlands Ranch. The school serves 383 students in grades K-8.

50 Prairie Creeks Charter School
PO Box 889
Strasburg CO 80136
BENNETT 29J
Opened 1997 **Administrator** William Powell
Phone 303-622-9211
Fax 303-622-9224
Email
Jointly created by Bennett, Byers, Strasburg, and Deer Trail School Districts. Contact Jim Lathrop, Superintendent of Bennett School District. These four school districts jointly formed this charter school to serve high risk students in the I-70 corridor. There are approximately 23 students enrolled at this time, but the school can serve up to 100 students. The school has adopted the PLATO Integrated Learning System. Students who successfully complete the program will earn either a diploma or a GED.

51 Pueblo School for the Arts and Sciences
1745 Acero
Pueblo CO 81004
PUEBLO CITY 60
Opened 1994 **Administrator** Dr. Patricia Arnold-Meadows
Phone 719-549-2737
Fax 719-549-2725
Email arnoid@uscolo.edu
The School for the Arts and Sciences is operated by the University of Southern Colorado. The school serves approximately 357 students in grades K-12. The program is based on the Paideia model for academic excellence.

52 Renaissance School
16700 Keystone Blvd.
Parker CO 80134
DOUGLAS COUNTY RE1
Opened 1995 **Administrator** Everett Bomgardner
Phone 303-805-0023
Fax 303-841-9118
Email
This elementary school offers a broad array of experiences to perpetuate children's natural joy in learning. Classes are personalized, multi-aged, and multi-lingual. Approximately 297 students are served. Parents are required to volunteer in the school.

53 Roosevelt/Emerson Edison Charter Schools
205 S Byron Drive
Colorado Springs CO 80910
COLORADO SPRINGS 11
Opened 1996 **Administrator**
Phone 719-637-0311
Fax
Email vaxford@roosevelt.edisonproject.com
The Edison Project is a private venture to provide world class education through partnership arrangements with public schools. It has schools at two sites in Colorado Springs, Roosevelt Elementary and Emerson Secondary. These two schools operate under a single charter; Roosevelt is K-5 (703 students) and Emerson is 6-8 (750 students) with plans to add grades 9 through 12. Roosevelt school serves 703 students in grades kindergarten through 5. Edison schools feature academics, technology, a longer school day and year, and attempt to bring together research and "best practices."

54 Sojourner School
4221 Piedra Place
Boulder CO 80301
BOULDER VALLEY RE2
Opened 1999 **Administrator** Tony Moats
Phone 303-789-7918
Fax
Email bvsd.k12.co.us/schools/sojourner
The school enrolls 35 students in grades 6 and 7.

55 Southwest Open School
PO Box DD
Cortez CO 81321
MONTEZUMA-CORTEZ RE1
Opened 1999 **Administrator** Jean Lovelace
Phone (970) 565-1150
Fax (970) 565-8770
Email jlovelace@cortez.k12.co.us
The school enrolls 155 students in grades 6-12.

56 Stargate School
12323 Claude Ct.
Eastlake CO 80614
NORTHGLENN-THORNTON 12
Opened 1994 **Administrator** Trish Kuhn
Phone 303-450-3936
Fax 303-450-3941
Email Trish_kuhn@ceo.cudenver.edu
The school serves approximately 250 students in grades 1-8. The middle school grades are located at Thornton Middle School. The school offers multi-age classes and programs that are interdisciplinary, flexible, individualized, competency-based, and incorporates off- campus opportunities. Each student has a personal learning plan.

57 Summit Middle School
1492 Knox Drive
Boulder CO 80020
BOULDER VALLEY RE2
Opened 1996 **Administrator** Bernie Grove
Phone 303-499-9511
Fax 303-499-0215
Email groveb@bvsd.k12.co.us
This school enrolls approximately 252 students in grades 6-8 and provides an academically rigorous, student-centered program for students who need or want greater challenge. Students are grouped by ability, interest and prior mastery, rather than age, in each of the five core subjects: Math, English, Science, Social Studies and Foreign Languages (Spanish, French, German). Two periods of electives include offerings in art, music, and technology.

58 Swallows Charter Academy
278 South McCulloch Blvd.
Pueblo West CO 81007
PUEBLO RURAL 70
Opened 1996 **Administrator** Julie Hollenstine
Phone 719-547-1627
Fax 719-547-2509
Email swallows@ris.net
The school enrolls approximately 177 students in grades K-8. The mission of the school is to help guide students in development of their character and academic potential through academically rigorous, content-rich educational programs built around a spirit of community

59 Tutmose Academy
1205 Shasta Drive
Colorado Springs CO 80910
HARRISON 2
Opened 1999 **Administrator** Dr. Anthony Young
Phone 719-473-6566
Fax
Email
This school serves 27 mostly high risk students in grades 9-11, with an emphasis on math, science and citizenship.

60 Twin Peaks Charter School
9th & Main
Longmont CO 80501
ST VRAIN VALLEY RE1J
Opened 1997 **Administrator** Dr. Peter Samaranayake
Phone 303-682-9377
Fax 303-774-9855
Email tpca@pyramid.cudenver.edu
The school serves grades kindergarten through 8th grade. The Core Knowledge Sequence is the primary focus of the school's curriculum. Enrollment is 432.

61 UNC Lab School
University of Northern Colorado
Greeley CO 80639
WELD COUNTY RE-8
Opened 1999 **Administrator** Kathleen Milligan
Phone 970-351-2321
Fax 970-351-2064
Email kemillie@bentley.uncd.edu
This school, which is located on the campus of the University of Northern Colorado, has been in existence for over 100 years. It converted to charter status in 1999. It enrolls 638 students in grades K-12.

62 Union Colony Charter School
2000 Club House Drive
Greeley CO 80634
WELD COUNTY RE-8
Opened 1997 **Administrator** Janet Flaugher
Phone 970-506-0884
Fax 970-506-0887
Email rlamb@alpha.psd.k12.co.us
The school was founded by a group of teachers and will serve no more than 300 students in grades 8-12. The enrollment is currently 181, and there are plans to expand to 12th grade next year. An interdisciplinary approach incorporating all core subject areas is an integral component of student learning at the Union Colony School

63 Wyatt-Edison Charter School
3620 Franklin Street
Denver CO 80205
DENVER COUNTY 1
Opened 1998 **Administrator** Karen LeFever
Phone 303-292-5515
Fax 303-292-5111
Email
The Edison Project is a private venture to provide world class education through partnership arrangements with public schools. This school serves 660 students in grades kindergarten through 7. Edison schools feature academics, technology, a longer school day and year, and attempt to bring together research and "best practices."

64 Youth and Family Academy Charter School
4035B Club Manor Drive
Pueblo CO 81008
PUEBLO CITY 60
Opened 1997 **Administrator** Rosaendo Melendez
Phone 719-549-7653
Fax
Email PuebYouth@aol.com
The target population is "at-risk" youth in grades 7-10 who do not respond well to traditional educational services. The school offers school-based, family centered support services through the Pueblo Youth Services Bureau. Enrollment is 118.

APPENDIX 3
SUMMARY OF FACILITIES
CURRENTLY IN USE BY
COLORADO CHARTER SCHOOLS

	Charter School	City	No. of Students	Grade Levels	Facility Size in Square Feet	Monthly Facilities Cost	Description
1.	Academy Charter School	Castle Rock	400	K-8	23,000	$13,800	Grades K-5 occupy former grocery store; grades 6-8 occupy a former florist and tanning salon space.
2.	Academy of Charter Schools	Denver	844	K-12	150,000	$30,000	The school occupies an abandoned high school in an adjacent district. No facilities were available in the school's chartering district.
3.	Alta Vista Charter School	Lamar	81	K-7	7,848	N/A	The school occupies a 1917 brick structure and one modular building owned by the district. It owns one modular building.
4.	Aspen Community School Carbondale Community School	Woody Creek Carbondale	214	K-8	24,000	N/A	This school consists of two schools in two communities operating under the same charter. The Woody Creek school is in a log structure plus three adjoining classrooms built in 1978. The Carbondale school is in a new school facility built in 1998.
5.	Battle Rock Charter School	Cortez	26	K-6	1,100	N/A	The school is in a stone building built in 1915 with add on wooden structure for toilets facilities. District Facility.
6.	Boulder Prepatory High Sch.	Boulder	50	9-12	3,200	$4,000	The school leases an office type building in an industrial/business park.
7.	Brighton Charter School	Brighton	352	6-11	65,000	$21,000	The school leases 3/4 of the old Adams County Courthouse from Adams County. The school shares the space with Front Range Community College.
8.	Cherry Creek Academy	Englewood	444	K-8	44,000	$30,881	The school purchased and renovated/added to a former church.
9.	Cheyenne Mountain Charter Academy	Colorado Springs	305	K-8	36,000	$11,821	The main facility is a refurbished warehouse (30,000 square feet) purchased with conventional mortgage financing for $1,500,000 ($500,000 down payment); a secondary facility is in space in strip mall (6,000 square feet).
10.	CIVA Charter School	Colorado Springs	100	9-12	N/A	N/A	This school is a "school within a school" in a district facility. The school has been allocated a block of rooms in one section of the building.

11.	Classical Academy	Colorado Springs	617	K-8	32,160	$35,833	The school acquired 15 modular buildings and one steel multipurpose building with a $1.5 million conventional loan.
12.	Collegiate Academy of Colorado	Littleton	531	K-12	42,000	$30,941	The school occupies a former check printing plant and two modular buildings.
13.	Colorado High School of Greeley	Greeley	105	7-12	7,000	$4,800	The school is in a store front/former post office remodeled into classrooms
14.	Colorado Visionary Academy Charter School	Parker	205	K-8	N/A	N/A	On a temporary basis the school leases modular buildings at district facility. The school currently has no long term facility.
15.	Community Involved Charter School	Lakewood	240	Pre-K – 12	30,000	$17,146	The school leases a remodeled church
16.	Community of Learners	Durango	130	6-12	18,283	N/A	The school is in a district facility (part of old junior high building). This school shares the building with another charter school, EXCEL School.
17.	Community Prep School	Colorado Springs	145	9-12	22,000	N/A	The school occupies a City of Colorado Springs facility rent free. The school pays maintenance and utilities only.
18.	Compass Montessori Charter School	Wheat Ridge	204	Pre-K – 6	11,500	$6,900	The school purchased and renovated former fruit market steel building for $827,000; it also purchased a nearby house for classroom space. Conventional financing and loans from district.
19.	Connect School	Pueblo	138	6-8	10,000	$4,000	The school is in reconfigured office space in the second floor of an office building.
20.	Core Knowledge Charter School	Parker	320	K-8	17,870	$12,288	The school is currently in a strip mall, with each classroom a separate storefront. Playground is paved parking lot. In process of CECFA authority bond financing for new 26,000 square foot facility ($3.3 million)
21.	Crestone Charter School	Crestone	59	K-12	6,000	$1,120	The school occupies two wood frame houses and one modular building. The modular was purchased for $46,350 and the other buildings are leased.
22.	Crown Pointe Academy	Westminster	203	K-7	10,700	$1,500	The school is in a district owned facility which the City of Westminster helped to remodel.
23.	DCS Montessori School	Littleton	280	Pre-K-6	20,000	$17,000	This school is presently located at two sites, a strip mall location and two modular buildings. It is in the process of constructing a new campus with the proceeds of a $7,120,000 CECFA bond offering.
24.	Eagle County Charter Academy	Wolcott	128	5-8	4,500	$3,000	Vail Associates donated two modular buildings; another modular is leased from GE Capital. Square footage is estimated.
25.	Elbert County Charter School	Elizabeth	218	K-8	12,160	$10,800	The school is in a remodeled shopping center. Playground in alley.

26.	Excel Academy	Arvada	126	K-6	8,770	$3,900	The school is in a remodeled store front.
27.	EXCEL School	Durango	109	6-12	15,700	N/A	The school is in a district facility (part of old junior high building). This school shares the building with another charter school, Community of Learners.
28.	Frontier Academy	Greeley	450	K-7	38,000	$32,000	Grades K-5 are in a renovated store/greenhouse; grades 6-7 are in a renovated office building.
29.	GLOBE Charter School	Colorado Springs	145	K-12	11,500	$8,300	The school is in a remodeled office equipment store (10,000) plus a suite of offices in office building (1,500).
30.	Guffey Charter School	Guffey	26	Pre-K-6	5,000	N/A	This school occupies a small district-owned facility in Guffey.
31.	Horizons K-8 Alternative School	Boulder	296	K-8	29,000	N/A	The school is in a district facility (former Burke Elementary site)
32.	Jefferson Academy	Broomfield	520	K-12	47,000	$18,333	The school purchased an elementary school building and 14 acre site from district for $200,000; in addition to the 35,000 square foot elementary building the school has 8 modular buildings and has issued bonds through CECFA to build new high school facility on site for $2,600,000.
33.	Lake George Charter School	Lake George	108	Pre-K– 6	17,722	N/A	The school is in a district facility
34.	Lewis-Palmer Charter Academy	Monument	335	K-8	18,880	$12,000	The school is in a series of modular buildings
35.	Liberty Common School	Fort Collins	502	K-9	46,731	$35,000	The school is in a former commercial research and development facility originally purchased through parent loan guarantees. In 1998 the school refinanced the purchase in a $3.7 million CECFA bond offering
36.	Lincoln Academy	Arvada	245	K-6	14,000	$4,900	Grades K-1 are located in Foster Cottages, a district owned facility. Grades 2-6 are located in rented church space.
37.	Littleton Charter Academy	Littleton	450	K-8	19,000	$14,583	The school is in a refurbished office building.
38.	Littleton Prep Charter School	Littleton	442	K-7	36,000	$10,000	The school is in a renovated Safeway store.
39.	Magnet School of the Deaf	Lakewood	27	Pre-K – 6	3,000	N/A	The school is in modular buildings on a district elementary school campus.
40.	Marble Charter School	Marble	17	K-8	7,000	N/A	The school is in a remodeled 1912 schoolhouse leased from Marble Historical Society for $1.00 per year. Shares building with museum.
41.	Montessori Peaks Academy	Littleton	296	Pre-K – 6	20,000	$16,000	The school is in a renovated store front.
42.	Mountain View Core Knowledge Charter School	Canon City	202	K-7	14,000	$8,000	The school is in an office building purchased for $780,000 with low interest loan from private financial institution.
43.	Odyssey Charter School	Denver	168	K-6	14,000	N/A	The school is in modular buildings attached to the terminal at

							Stapleton Airport site. The facility was acquired through cooperative efforts of Stapleton Development Corporation, Cohen Bros. Homes and City of Denver and several foundations.
44.	P.S. 1	Denver	239	5-12	31,000	$14,503	The school leases a refurbished 1930 manufacturing facility. The cost of refurbishing was $2 million. The school has a ten year lease and no option to purchase.
45.	Paradox Valley School	Bedrock	20	K-6	8,645	N/A	The school uses a district facility, which includes a Quonset Hut type gym and a 1954 red brick building.
46.	Passage Charter School	Montrose	22	9-12	2,736	$1,641	The school acquired its facility through a lease-purchase arrangement. It shares the facility with on-site childcare for the students' children.
47.	Pinnacle Charter School	Thornton	635	K-11	45,000	$34,000	The school is located in shopping mall. Students have PE on sidewalk.
48.	Pioneer Charter School	Denver	315	Pre-K-5	43,989	N/A	The school occupies the former Harrington Elementary site.
49.	Platte River Academy	Littleton	383	K-8	25,000	$23,000	The school is in a shopping mall.
50.	Prairie Creeks Charter School	Strausberg	23	9-12	1,200	$650	The school leases its facility from a church.
51.	Pueblo School for the Arts and Sciences	Pueblo	357	K-12	37,990	N/A	Grades K-8 are housed in an abandoned district facility; grades 9-12 are housed in the University of Colorado library wing. The University does not charge rent.
52.	Renaissance School	Parker	297	K-8	30,000	N/A	The school is in a building built with conventional financing. The current facility will be replaced by $3.8 million CECFA bond-financed facility.
53.	Roosevelt Edison Charter School Emerson Edison Charter School	Colorado Springs	1,453	K-8	161,448	N/A	This school consists an elementary school (Roosevelt) and a secondary school (Emerson) that converted from conventional schools. They are both located in district-owned facilities. The elementary school has 703 students; the secondary school has 750 students.
54.	Sojourner School	Boulder	35	6-7	2,000	$1,400	The school leases space from a church.
55.	Southwest Open School	Cortez	155	6-12	5,200	N/A	The school occupies seven trailers owned by district.
56.	Stargate School	Eastlake	250	1-8		$3,700	The middle school is located in Thornton middle school.
57.	Summit Middle School	Boulder	252	6-8	N/A	N/A	The school has seven portable classrooms and offices on the campus of another district middle school. 22,000 feet of shared space; 3,600 portable classrooms; 1,650 portable office.
58.	Swallows Charter Academy	Pueblo West	177	K-8	17,000	$7,989	The school is in a remodeled grocery store acquired through a lease purchase with commercial financing.
59.	Tutmose Academy	Colorado Springs	27	9-11	6,000	$5,000	This school occupies the second floor of a two story office building in a low to moderate income area of the City.

60.	Twin Peaks Charter School	Longmont	432	K-8	66,000	N/A	The school is in historical Longmont High School built in 1926. It shares the building with the district.
61.	UNC Laboratory School	Greeley	638	K-12	50,000	N/A	This school is located in a facility owned and donated to it by the University of Northern Colorado.
62.	Union Colony Charter School	Greeley	181	8-12	15,000	0	The school is in a remodeled church. It purchased and remodeled the church with a grant from Monfort Foundation ($491,000).
63.	Wyatt-Edison Charter School	Denver	660	K-7	N/A	0	The school is located in an historic school building built in 1887. The school did $6 million restoration and an addition financed by a local philanthropist who owns the building and leases it to school for $1.00 per year.
64.	Youth and Family Academy Charter School	Pueblo	118	7-10	5,250	N/A	This school occupies 7 classrooms on the second floor of a facility owned by the district.
	TOTALS		**17,472**		**1,517,082**	**$511,729**	